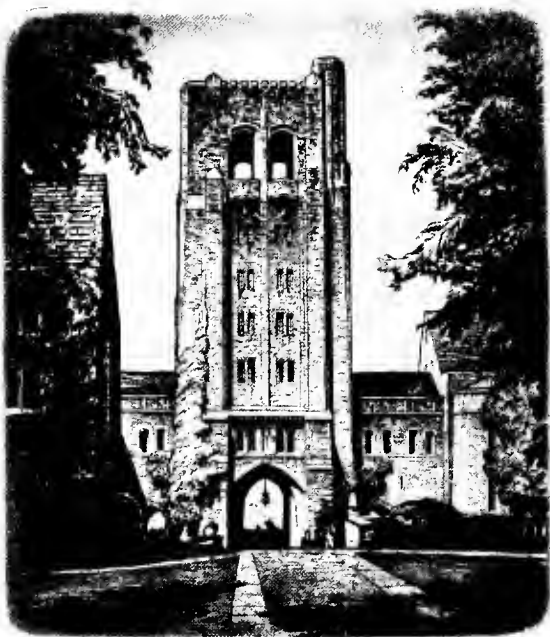




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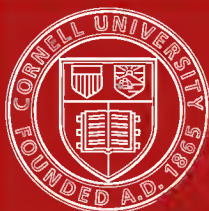
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THE
BENCH AND BAR
OF THE
SOUTH AND SOUTHWEST,

BY HENRY S. FOOTE.

ST. LOUIS:
SOULE, THOMAS & WENTWORTH.
1876.

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PREFACE.

The unpretending volume which is now about to make its appearance in the world of books owes its origin to the following circumstances. The worthy editor of the *SOUTHERN LAW REVIEW*, with whom I had not at the time the honor of a personal acquaintance, towards the close of the last winter requested me, by letter, to write something concerning the "Bench and Bar of the South and Southwest," accompanying the application with a statement that he had been induced to open this correspondence with me by seeing, a few months previous, an article in one of the newspapers, over my signature, from which he had derived some entertainment. To this complimentary request—though much occupied with other engagements—I could not refuse my assent. How the first of the articles transmitted by me to St. Louis was followed by a second, third and fourth, and in what manner enough was written by me to fill a book of the present dimensions, will sufficiently appear hereafter. Meanwhile, the light and hastily prepared article which had thus favorably attracted the notice of Mr. Thompson will be here set forth:

"In former days, during the earlier years of Mr. Madison's memorable Administration, that interesting portion of the present State of Louisiana which lies contiguous to the frontiers of the then Mississippi Territory, was far from being in as peaceful and undisturbed condition as it should have been. The Spanish authorities evinced much reluctance to yield up to the Anglo-American race the beautiful and fertile region which Mr. Jefferson had so dexterously acquired at the hands of the First Consul of France, in the year 1803. Collisions of a very serious character were constantly occurring between citizens of the United States on one side of the dividing line, and the earlier Spanish and French settlers on the other. The

volumes of the American State Papers of that period abound with the most thrilling and disgusting recitals of murders, robberies, and even crimes of a more shocking character still. The surface of the *debatable* ground in the neighborhood of Baton Rouge, though in ostensible possession of the Spaniards, and yet called West Florida, was already crowded with enterprising colonists from the United States, who were eagerly awaiting such action on the part of the peace-loving American Government as would enable them to realize the large fortunes which many of them had confidently expected to obtain as the reward of removal from their former homes. At length the patience of this enterprising class was exhausted by long delay and multiplied sufferings at the hands of the corrupt and tyrannical Spanish officials, and they resolved to improvise a sort of *coup d'etat*. About the year 1810 (as my very respectable informant assures me) a meeting of American residents was called in the town of Baton Rouge, upon a certain bright Monday morning, and a number of resolutions were offered and unanimously adopted, declaring the *termination of Spanish rule*, and providing for the immediate establishment of a republican government. These resolutions prescribed that the new state or commonwealth should be called the 'State of Florida;' that one Fulwar Skipwith should be the Governor thereof for the time being; that a court should be forthwith organized under the name of the 'Court of Florida,' to be composed of three justices, of which the same Fulwar Skipwith was to be one; and that this court should hold its first session the very next day at eleven o'clock, A. M., precisely, and within the precincts of a certain well-known log tenement situated about the centre of the town. In this court was to be concentrated all the judicial power of the infant State; and the two remaining judges thereof were likewise specified by name in the resolutions which, until further arrangements could be made, were to be recognized as constituting the organic law of Florida. One of the last mentioned judges was a wealthy planter in the vicinage, of known moral worth and of many amiable attributes besides. The third was a noted personage then dwelling in Baton

Rouge, once commanding a small vessel in the American service, who was reputed to have in that capacity evinced no little energy, and to have been particularly effective in all matters of marine discipline needful to be enforced by the *cat-of-nine-tails* and other kindred instrumentalities.

"Fulwar Skipwith was a man of no little note. He was a native of Virginia, and was quite celebrated for his high-bred courtesy, his general literary accomplishments, and his splendid style of living. He had been for many years American Consul in France, at one of its most commercial cities, had performed the duties attached to that position in a most creditable manner, and had returned to the United States with an elegant and accomplished French wife, (whom many years ago I personally knew,) bringing back with him also French *politesse* and French notions and habits. He was on intimate terms with Mr. Jefferson, and had corresponded with him freely upon many subjects, subsequent to the return of this illustrious American statesman from his mission to the Court of Versailles.

"Well, at the hour agreed upon for the assemblage of the judges mentioned, Fulwar Skipwith drove into Baton Rouge from his palatial residence in the country, in a splendid coach and four, with outriders and lackeys to match; and, on reaching the front of the hall of justice, found it surrounded by a multitude of his enthusiastic and aroused countrymen, who received him with loud and oft-reiterated huzzas. He descended majestically from his carriage, arrayed in costly habiliments of undoubted Parisian cut, and strode slowly, and, it must be confessed, somewhat ostentatiously, towards the open door of the court-house, bowing, as he moved along, to the right and to the left, alternately, with as much of mingled grace and majesty as Louis le Grand himself could have brought into requisition. When he got within the door, he saw in the back part of this most uncourtly edifice three plain straw-bottomed chairs, which had been placed upon a platform of singularly rude construction, raised about two feet above the level of the floor. In the central one of these he bestowed his prepossessing person, and awaited silently the

coming of his official *confreres*. The first of these that appeared was Mr. Thomas. Being a singularly modest and retiring person, this gentleman waited at the door for a moment, not knowing precisely where he was to sit. Upon observing this, Mr. Skipwith leaned forward and beckoned him to advance, which he did, and presently took the chair on the right of Mr. Skipwith. After an exchange of the usual salutations, the latter observed, in a singularly bland and winning manner, that he presumed that little could be done by the court for the present beyond getting organized and appointing a chief justice; 'to-morrow,' said he, 'we can proceed to administer the justice of the land.' To this Mr. Thomas deferentially assented, adding: 'Of course, Mr. Skipwith, you, who have had so much and such varied experience, will have to act as our chief justice.' 'As to that,' said Mr. Skipwith, 'neither seeking nor declining such a signal honor, I shall be content to conform to the wishes of my respected associates.' A noise was presently heard outside the door. The third judicial magnate had arrived. He had walked more than a mile from his own habitation to the place of concourse. The new-comer was dressed out in a full suit of naval uniform rather the worse for wear. His large, capacious head was surmounted with a cap and feathers, a good deal soiled, but of a very menacing aspect. A rusty sword hung at his side. The weather being quite warm, the perspiration was flowing freely down his plump and rosy cheeks, which he was diligently wiping away with a crimson bandanna handkerchief. His hand held a heavy cane, terminating in a sharp iron spike, with which he rapped emphatically upon the resounding plank floor, as he advanced unceremoniously and sat down heavily in the vacant chair upon the platform. So soon as he had cleverly composed himself therein, Mr. Skipwith, with somewhat increased courtesy, made the same suggestion to which Mr. Thomas had already responded so civilly. Upon this, up rises the personage just described, (but whose surname I have really quite forgotten,) and thus vociferated, in a most stentorian voice, accompanied with a suitable rapping of his cane upon the platform: 'Oh! if that is the question to

be decided, that's — easily settled; I'm chief justice of *this* court, by —.' To this Skipwith mildly answered that if he claimed the position referred to, he should himself be far from holding controversy with him upon that point. Then the self-constituted chief justice, seeing the sheriff of the parish in court, addressed him in the same grand and imposing manner, asking what prisoners he had in jail, and what were their offences. To this enquiry the sheriff responded that there were several men in his custody charged with minor offences, and one man accused of murder, but against whom no indictment had been yet found. 'Bring out the fellow charged with murder,' cried this modern Jeffries; 'I wish to try my hand upon him immediately. I intend to show all such ruffians that no man is hereafter to be killed in this parish except with the consent of this court first had and obtained.' He then resumed his seat. In a few minutes the sheriff reappeared, driving before him a pale, wretched looking man, whom long confinement and other sufferings had reduced almost to a skeleton, and deprived well-nigh altogether of the power of locomotion. Upon beholding this ghastly apparition, up rose the chief justice again, and staring at the prisoner ferociously, he propounded this astounding interrogatory: '*What have you to say why sentence of death should not be pronounced against you?*' The poor creature, frightened almost to death, and trembling from head to foot, feebly answered: 'I have employed this lawyer to defend me,' pointing to a good-looking and neatly-dressed young man who was standing near him, and with whom I became acquainted about twenty years after, as Judge Turner, presiding with much dignity in the Criminal Court at New Orleans. This reply of the prisoner greatly increased the rage of his official interlocutor. Staring angrily at the mild and amiable-looking attorney, he broke forth in a voice of thunder: 'Oh, by —! none of your *quirks* or *quibbles* of the *law*!' Then turning to the prisoner, and stretching forth his long and muscular right hand, with the fingers thereof closely adhering to each other, he said: 'If you are guilty, which I have good reason to believe, I'll be — if you slip through these

fingers.' It was with great difficulty that this sort of summary justice was stayed in its execution for a few days, during which intelligence fortunately arrived that the Spanish Government had at length yielded to reason, that the disputed territory would be at once placed under the protection of the immortal stars and stripes, and that the constitution and laws of the Union would thereafter guarantee 'life, liberty, and pursuit of happiness' to all the white residents of Louisiana. The 'State of Florida,' after a brief but romantic existence, ceased to dominate along the banks of the Father of Waters, and this suddenly improvised government disappeared from the view of men forever, 'like the unsubstantial fabric of a dream.'"

Having thus explained the facts referred to in the outset of this prefatory address, I now cheerfully commit this book to the fate which may be in reserve for it—neither altogether careless of increased fame, nor over-eager of commendations not likely to be bestowed upon a performance which, I am aware, owes whatever of merit it may have to a memory somewhat more than ordinarily retentive of the passing occurrences of life.

H. S. FOOTE.

JANUARY 29, 1876.

THE
BENCH AND BAR
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CHAPTER I.

Why this Work came to be Written.—General Remarks.—The Duties and Responsibilities of Attorneys and Judges.—De Tocqueville on the Bar of the United States upon the Occasion of his Visit to this Country.—Mr. Burke's Reference to the Lawyers in the American Congress of 1776.—Migration of the Author to the State of Alabama in 1825.—Visit to Huntsville.—Lawyers then Practicing there.—Author F. Hopkins.—Clement C. Clay.—William Kelley.—James G. Birney.—John McKimley.—Harry I. Thornton.—James McClung.—Caswell R. Clifton.

The writer of the following pages sets up no claim to absolute *originality*, either in thought or expression, in the few general reflections which he is about to communicate. He has long felt that there is nothing which can be said to impart true dignity to man as a rational and sentient being, save the performance of acts of illustrious virtue and the inculcation of those lessons of practical wisdom which the accumulated experience of ages has supplied. The lustre of gold is dazzling to the vulgar eye, and luxurious pleasures are attractive to coarse and grovelling sensualism; but there is naught in these which can adequately respond to the aspirations of a cultured intellect and an uncorrupted soul. But we all know that the shortness of human life, and the feebleness of human memory are such, that the best and noblest acts of earthly wisdom or virtue, and all the advances which we are capable of making, during our present state of existence, in knowledge and refinement, would fail alike of *present* recognition—except in an exceedingly limited circle—and of be-

coming known to future generations, were no special means put in use for the purpose of bringing them to the notice of the world in general, and perpetuating them in the recollection of posterity. Though not much given to fits of solitary musing, it did so happen that I chanced to be meditating one morning in my room, at the great and growing Metropolis of the Republic, upon topics such as these, when a letter was handed to me, referred to already in the preface to this volume, which caused me to write "something upon the Bench and Bar of the Southern and Southwestern States" for insertion in the SOUTHERN LAW REVIEW, which, with certain other writings on the same subject appended thereto, is now presented anew for the consideration of such as shall be at all curious as to matters of this kind.

This is indeed a most suggestive subject, and would well admit of being discussed in several different modes, neither of which would perhaps be altogether devoid of entertainment or of instruction. It would be gratifying to me to find out that I had been at least so far successful in this hasty and imperfect essay, as to attract attention to the importance of collecting and preserving in some mode the rich material yet existing for the future composition, by some competent and judicious writer, of the history of the eminent jurists and advocates, who, in former days, delighted and edified the men of their own generation, either by the spoken eloquence of the forum, or by the more grave and authoritative exposition of those principles of law and order which lie at the very foundation of all enlightened and prosperous commonwealths.

It has long been asserted by men whose words are entitled to much respect, that in all communities enjoying free institutions, and especially in such of them as have become remarkable for commercial growth and consequence, *mind* and *money*, that is to say, cultured intellect and accumulated wealth, are unequalled elements of power, and are capable, when thrown into combination, of wielding an almost irresistible influence over the concerns of the whole body politic. Experience has more than once most signally demonstrated that when the possessors of actual capital, in the various forms which it is

capable of assuming, become in any way very closely affiliated with those classes of population whose native intellectual energies have been expanded and invigorated by scientific culture, these eventually become, for many purposes, a *single class* or association, more or less organized for action, and are sometimes seen to gain an ascendancy only to be counter-vailed by a resort to something like revolutionary expedients, rarely less mischievous in their effects than the evils sought to be removed by their instrumentality. In this view of the subject it would seem impossible to over-estimate the importance of preserving in the bosom of the dominant classes referred to, all the higher social virtues in their fullest vigor, in order that the power which they are capable of bringing into exercise may not be so applied as either to engender wide-spread social demoralization or bring about the destruction of civil liberty itself.

When the celebrated French writer, DeTocqueville, visited this country, some years since, he took occasion in the justly celebrated work which he then published upon Democracy in America, to assert, as the result of his own personal observation, that in all our great commercial cities, the merchants or men of trade, and the lawyers, constituted what he deemed a veritable aristocracy. This was, perhaps, a somewhat overstrained declaration, but has, nevertheless, this foundation, that these two singularly alert and vigilant classes of our people are often found in such close association as to give them the appearance of acting with *united counsels*, influenced, as in such cases they seem to be, by the same motives of action, following the same schemes of speculative emolument, and, perhaps naturally enough, seeking to mould the general legislation of the country in such forms as to give undue protection and furtherance to particular class-interests, at the expense of the general welfare, and to the deep and irreparable detriment of other portions of the community of a more sluggish and inactive character. It may be safely asserted that at least nine-tenths of all the laws from time to time enacted, owe their origin, directly or indirectly, to the associated influence of the two classes under consideration. The administration of law

in our courts of justice, which in many instances is really equivalent in practice to the exercise of the law-making power itself, is, naturally enough, devolved almost exclusively upon those who chance to have made our system of jurisprudence a subject of special study. Those who know precisely what laws are already in existence, and who are familiar with the various, and often directly conflicting interpretations to which they have been subjected, are, reasonably enough, presumed to be able to decide what new laws are at any moment necessary, or what modification of existing statutes experience and the progress of society shall have rendered expedient. The commercial or moneyed class has never yet failed to make its wishes, as to additional legislation, known to the law-making department, and has seldom failed to find in our legislative assemblies, both state and national, ready and skillful agents to facilitate the adoption of the amendments desired.

It is often justly mentioned as a circumstance highly honorable to the legal profession, that in almost all ages and countries, eminent jurists have been found who proved themselves to be just and patriotic men, and firm protectors of liberty. Mr. Burke is known to have remarked, on a particularly grave and interesting occasion, in the British Parliament, when our struggle for national independence was in progress, upon the fact that both in the colonial legislatures of that period, and in the first Congress of the Union which ever sat, a much larger proportion of lawyers were occupants of seats in those bodies than had been elsewhere known, and he attests in very emphatic language the learning and ability of the American lawyers of that time, their sterling patriotism, and their skill in drafting the great state papers which were then promulged, and which yet command the general admiration of refined and cultivated minds in all civilized countries.

With the members of my own profession, as a class, I have long had much familiarity in some nine or ten states of the Union, and I take pleasure in attesting that I have derived from my intercourse with them, much, both of gratification and instruction. Were I to indulge in indiscriminate commendation of all those whom it has been my fortune to meet in the

contests of the forum, or the incidents of whose professional career have been brought to my notice, I should greatly wrong my own self-respect and do egregious injustice to the public at large; but I am certain that I do not go too far in declaring that in the various states which I have from time to time visited, in the progress of a now somewhat protracted professional career, I have found my brethren of the bar, with a few exceptions, intelligent, astute, laborious, upright and manly in their conduct, cherishing a high and delicate sense of individual honor, and displaying, on all proper occasions, a proper regard for the dignity of their own calling, as well as a profound respect for the example and counsels of those illustrious sages who have earned undying renown in the judicial annals of our own country and of England.

It has now been a little more than fifty years since I migrated from my own native state, and entered for the first time a court-house in that region where my subsequent life has been chiefly spent—a region *then*, in all respects so eminently prosperous and happy, and *now*, alas! so wretched and forlorn. The court-house to which I have just referred was situated in the town of Huntsville, and in the state of Alabama. An interesting case was under trial. An upright and enlightened judge was presiding, the bar was filled with learned and well-dressed attorneys, and an immense assemblage of citizens was in attendance. Arthur F. Hopkins was addressing a jury of singularly good-looking men, and I soon became deeply interested in the speech which he was most impressively enunciating. I had never before seen him, but had often heard him spoken of in terms of marked respect and commendation. There were opposed to him several lawyers of standing, who afterwards attained a most extended and enviable reputation, both as jurists and statesmen. Among these was Clement C. Clay, who was afterwards a worthy member of the national senate, and whose son of the same name, after a long course of trials and sufferings, which I rejoice to know he has encountered with singular dignity and composure, yet survives. I do not remember often to have enjoyed a higher intellectual treat than the trial of the case referred to afforded me. Judge

Hopkins, afterwards so distinguished as a member of the supreme bench of his adopted state, was then just in his prime. He was of a most impressive and winning aspect; perfectly dignified and self-possessed, though full of earnestness and energy. He possessed a most easy and graceful delivery; exhibited remarkable powers of argument, and was, upon the whole, one of the most polite, affable and gentlemanly persons that ever left the venerated state of Virginia to seek fortune and fame in the far southwest. Though he was then only about thirty-five years old, he was universally admitted to have made himself a complete master of his profession. He was reported to have been for some years a most diligent and assiduous student of the law, and to have possessed himself of much and various learning in other departments of science. In after years I enjoyed his personal intimacy and friendship, and I found him every day and hour growing in my affection and esteem. He died a few years since universally respected and lamented by his numerous friends and admirers. Judge Clay, whom I have mentioned as also speaking on this occasion, was a man of highly prepossessing appearance. He had also been born on the soil of Virginia, but had been reared to manhood in East Tennessee. He was about six feet in height, well-shaped, and easy in his movements, bland and courteous in his manners, and of a personal courage never called in question. He had rather a redundant suit of jet-black hair; his eyes were dark and lustrous, and they positively blazed in their sockets when he was under special excitement. I heard both these gentlemen often afterwards, and never had any reason to modify my first favorable impressions in regard to them.

I have stated that at the time to which I have referred the bar of Huntsville was crowded with attorneys. I have not space at this time for the mention of many of them, and of those whom I am about to mention it is not convenient at present to speak in such terms as their merits would well justify. Among these was Judge William Kelley, a native of Tennessee, a man of most brilliant intellect, of great originality, full of learning of almost every kind, of surpassing ingenuity and logical dexter-

ity, copious in illustration, almost to profuseness; at times most touchingly eloquent, and with a rich and fervid imagination; possessing an inexhaustible fund of facetiousness; occasionally bitterly sarcastic; but sometimes overflowing with harmless but irresistible raillery. He occupied a seat in the United States Senate in the winter of 1824-5, where I first saw him; was an ardent devotee of General Jackson, and both a hater and reviler of his illustrious antagonist, Mr. Clay.

The famous Jas. G. Birney was also at the time mentioned a member of the Huntsville bar, where he was exceedingly beloved and respected. When he afterwards became the zealous advocate of African Emancipation, though his friends in Alabama could not then approve this part of his public career, he still retained much of their respect and kindness, and his integrity as a man was never called in question by them, nor were his learning and eloquence as a forensic advocate. Mr. Birney was a singularly fluent and polished speaker, and was known to have given much more attention to the niceties of orthoepy than was then customary among the lawyers of this newly-settled region.

John McKinley, I also now first met. Born, as I have heard him say, in the county of Culpepper, and state of Virginia, he had commenced his professional career in Kentucky, whence he migrated to Alabama, and soon gained a high rank at the bar of Huntsville. He was for some years in Congress, after my acquaintance with him was formed, and was appointed by General Jackson to a seat upon the Supreme Bench of the Union. He was undoubtedly a man of great morality and uprightness, and deficient neither in legal learning nor in ability in the argument of causes, both before courts and juries. There was much in his busy and varied career to reward the labors of some impartial and competent biographer.

Harry I. Thornton was also a member of the Huntsville bar in 1825. Born also in Virginia, and reared in Kentucky, he came to Alabama about fifty-five years ago. He was the grandson of the celebrated Harry Innes, of whom Mr. Wirt makes such glowing mention in his *Life of Patrick Henry*; had married, before he left Kentucky, the accomplished and

amiable sister of John J. Crittenden, who, I am glad to know, still lives, surrounded by all that can render life desirable, save the presence and society of her tenderly lamented husband. Harry I. Thornton, after acquiring much reputation at the bar, in legislative halls, and upon the bench of the supreme court of his adopted state, was selected by President Fillmore, in 1850, as one of the three land commissioners sent to California. There he gained much additional honor, and is yet remembered by all who then enjoyed his society, with unmixed affection and reverence. His eloquence in conversation was such as I have seldom known equalled, and his fund of choice and classic anecdote seemed altogether inexhaustible. A truer, braver, and more magnanimous gentleman has never lived.

In Huntsville, too, at the time mentioned, I first met James McClung, a leading member of the Alabama bar for many years; a graceful and effective speaker, born to be loved by all mankind, and one of the noblest specimens of genuine Southern chivalry that I have ever known. He was brave almost to a fault, but possessed as warm and generous sensibilities as ever glowed in the heart of purest and most exalted manhood. Colonel McClung was born in east Tennessee, where many of his relations and early friends yet have him in respectful and tender remembrance. Some of the incidents of his stormy and eventful life would prove as attractive in narrative as the most thrilling scenes depicted by a Scott, a Bulwer or a Dickens.

I should not omit to state here that in Huntsville, at this time, I first encountered a gentleman of the rarest gifts and graces, and with whom I afterwards formed a close friendship in the state of Mississippi, where, for many years he practised law with great distinction, and where he was universally loved and respected. I allude to *Caswell R. Clifton*, whose whole life was marked with displays of domestic and social virtue, who held various public offices of much responsibility, and was universally admitted to have done honor to them all.

Many other loved and venerated names recur to "my pained and softened memory," in looking back to the occa-

sion of my first visit to Huntsville, upon which, were it allowed me, I should gladly dilate. But I must hasten to conclude this article, which I fear will seem to some already too long, by some account of a scene of unusual interest which I will now briefly depicture..

General Andrew Jackson, and Colonel James Jackson, of Lauderdale county, in the state of Alabama, were at one time intimate friends. They were both men of eminent worth, of most elevated social standing, and of indomitable strength of will. They became bitter enemies, both political and personal. I have heard the causes of their lamentable estrangement recited, but do not care to specify them here. Colonel John Donelson, a nephew of the venerated wife of General Jackson, resided in north Alabama, not far from the residence of James Jackson. He was a very wealthy man. His personal integrity was unquestioned; his personal courage had well-nigh passed into a proverb. It so happened that a Mr. Smith, also a resident of this once famous vicinage, had married a niece of James Jackson. A bitter personal feud sprang up between Donelson and Smith which soon involved their numerous friends, and in the progress of which much crimination and recrimination was indulged. At last aspersive words of a highly insulting character were publicly used by Donelson, out of which originated an action for slander. Donelson, when sued, so far from denying the employment of the offensive words imputed to him, *justified* the utterance of them and prepared to make them good by proof. James Jackson was, perhaps, the wealthiest man at this time in the county where he lived. He was in the highest degree popular and influential. I had a familiar acquaintance with him, and esteemed him most highly. He was an Irish immigrant to this country, and had brought with him from his native land much money and a numerous and accomplished family connection. He had come across the ocean in the latter part of the last century because of the serious civil disturbances then prevailing there. It was soon ascertained that the whole population of Lauderdale had become so embroiled by this unhappy contest, that it would be impossible to try the case there, and a *change of*

venue was had. This proceeding brought the case and parties across the river to the county of Franklin, where I resided at the time. The circuit court was then held in the old village of Russelville, about eighteen miles from the Tennessee river. The judge who was to preside at the trial was a gentleman of great integrity and reputation, of undoubted learning, and was sternly resolved to do his duty as a public officer, under the trying circumstances which surrounded him. The day of trial came, and the contending litigants came also, attended by their numerous friends and adherents. The witnesses of Donelson were so numerous that, for want of tavern accommodation, they had to encamp in the fields adjoining the village. There was a grand array of attorneys on both sides, each of the parties contestant having employed four or five. Judge Kelley was the leading counsel for the defence, and was expected to make the concluding speech in support of the plea of *justification*. I had a good opportunity of seeing and hearing all that occurred, having been specially employed to *take down the evidence*, for which I gratefully remember to have received what I regarded at the time as quite a *remunerative* fee.

The trial occupied several days. The lawyers on both sides exerted themselves to the utmost, and exhibited ability and zeal which I have never seen surpassed. It had not then become fashionable to occupy seven or eight weeks in the trial of a single case, and the arts of procrastination, now so freely allowed in certain localities, for the spread of social excitement and the diffusion of forensic fame, would have been then nowhere tolerated. More than a hundred witnesses were examined; there was much conflicting evidence; many different and interesting points of law were discussed and decided, and the trial was brought to an end before the close of a week. The speech of Judge Hopkins was most masterly. I do not know that I have heard it since surpassed. He analyzed the testimony fully; he explained the legal principles involved with a power and earnestness which filled all present with admiration; his peroration was marked with the most soul-moving and overwhelming eloquence. The court having adjourned

for dinner immediately after Judge Hopkins had concluded, I met Judge Kelly at the door of the court-house as he was passing through it, and enquired of him what he thought of the effort he had just witnessed. He responded, with tears flowing down his cheeks: "I shall leave the state for New Orleans in a few days, but I leave no man behind me whose abilities I respect as much as I do those of Arthur F. Hopkins. *He is the biggest handful I ever grasped!*" After our return from dinner, Judge Kelly commenced his response. I doubt exceedingly whether a more telling and effective forensic speech has ever been made on either side of the Atlantic since the days of Erskine and Curran. He was logical, he was facetious, he was pathetic, he was denunciatory, by turns; and he seemed to wield the jury as a boy would do his playthings. The presidential contest between Jackson and Adams had just occurred, and the whole public mind of Alabama had been inflamed almost to madness by the fierce discussions of the period. The members of the jury were all *Jackson men*. Right well did Judge Kelly know this important fact, and right adroitly did he take advantage of it. He alluded more than once to the fact that Donelson was the nephew of the hero of New Orleans, and that his antagonist was the nephew, by marriage, of one of his bitterest foes. As he thundered forth his furious invective, the faces of the jury were ablaze with partizan excitement and indignation. They retired, under the charge of the court to the room assigned them for conference; but no conference there took place. Their minds were already made up. A loud "*hurrah for Jackson*" was heard as they left the court room, and a few minutes thereafter, they returned with a verdict for the defendant; which verdict the Judge, though himself an ardent Jackson man, set aside at once without waiting for a motion to be made for that purpose.

CHAPTER II.

General Remarks.—Duties and Responsibilities of Lawyers.—Dr. Draper's Tribute to the Profession.—Lord Brougham's View of Professional Fidelity.—Wholesome Influence Exercised by Lawyers as a Class.—Visit of Author to Natchez in 1830.—Supreme Court of Mississippi —Judges Turner, Child, Nicholson, Black, and Cage.—Duels between Child and Joor, Ben. Leigh and Davis.—Thomas B Reed.—William C. Griffith.—Robert H. Adams.—Spence M. Grayson.—Robert H. Buckner.—Edward C. Wilkinson.—Vicksburg Bar in 1831.—S. S. Prentiss and others.—Joseph Holt.—Danial Mayes.

It is possible that there may be some by whom the propriety may be a little questioned of an attempt being thus made, however modestly, to preserve the scattered and fast disappearing memorials of a class of individuals concerning whose merits and achievements the opinions of mankind, in different countries and ages, have not been altogether identical. To the more liberal-minded the facts presently to be adverted to may perchance supply some excuse for an undertaking which might otherwise be recognized as alike superfluous and obtrusive.

In the more prosperous and enlightened communities which have heretofore existed, lawyers, whether performing the ordinary duties of their calling, or elevated to positions from which it is expected that they will authoritatively enunciate the principles of jurisprudential science, and take adequate measures also for the maintenance and enforcement of those principles, have been, from time immemorial, recognized in many important respects, as indispensable civil functionaries, and as such, invested with certain peculiar powers and privileges, and also held amenable to a number of grave and delicate responsibilities, from which other members of the body-politic are altogether exempt. The customary presence in courts of justice of attorneys and counselors, and their habitual participation in the most solemn and interesting judicial proceedings, have naturally caused them to be considered a constituent part of the court itself, or at least as an essential appur-

tenant thereto. Nor is this to be at all wondered at, since many of the functions which they are expected to take upon themselves, and for the failure to discharge which with fidelity and efficiency they are subject to be held to account, are of a nature alike needful to the convenient and satisfactory dispensation of equity between man and man, the due enforcement of the law of the land, and the upholding of the governmental authority itself. It can not well be denied that the institution of a wise and practicable system of judicature is one of the distinguishing characteristics of what is called *civilization*—that highest form of social organization—which system, though, to be of any appreciable value, must, of necessity, be fairly and impartially administered. Otherwise, indeed, the evils of disorder and anarchical lawlessness—not seldom resulting in *mob despotism*—that fearful omen of returning barbarism and badge of municipal dishonor, must inevitably ensue. But it would be in the highest degree absurd to expect laws, however artistically framed they may be, to prove wholesomely operative unless they shall become *intelligible* in some way, with a view to their enforcement among those for whose benefit they are framed. That is to say, they must be completely understood by the mass of those subject to their authority, or by some special class of persons capable of supplying a reasonable and adequate explication of them. Now, it is exceedingly plain that this matter is one to which the citizens can not give due attention by reason of their being necessarily otherwise occupied. Nor should the fact be overlooked that uniform experience has shown—what would be perhaps sufficiently evident in itself without this aid from experience—that legal requisitions of almost every description are seen to multiply in number, and to take upon themselves also an increased complexity of structure, in proportion as society advances in wealth and refinement; thus rendering the task of interpreting them more and more difficult; as well as the skilful ministration of remedial expedients needful to be resorted to for the speedy and effective redress of violated rights, or for vindicating the majesty of the violated law by the exemplary punishment of flagrant wrong-doers. In such

a state of affairs the perpetual presence in the bosom of the community of a class of individuals whose minds have been especially, if not exclusively given to the study of law as a science, as well as to all the technical formalities of its administration, seems too manifest to need a more elaborate explanation. It is in this view of the subject that the whole body of the community is deeply interested in all things appertaining to the history of the legal profession, in the advance of those belonging to it in intellectual culture, and the preservation among them of the purest and most elevated morality.

It is scarcely necessary, after what has been already said, to suggest that the members of the bar in a free country like our own, have it in their power, both individually and collectively, to render great and peculiar services to the community in which they have been given a commission to expound the solemnly enacted laws of the land, and to take upon themselves the most important *fiduciary* responsibilities. It is equally true that the chosen profession opens to them opportunities of perpetrating much evil, and of setting a bad and deleterious example of demoralizing and disgusting iniquities before the eyes of their own and of future generations. That the well-recognized duties of their vocation expose them to special and almost overwhelming temptations to extreme selfishness and perfidy, can not be denied—which temptations, if unwisely yielded to, may bring upon them irreparable disgrace, but which, if resisted with manly firmness, may secure to them imperishable honor,—there are few who do not understand.

The history of lawyers, both in Europe and America, has much of what they may justly feel proud, and more, also, than it is pleasant to remember, over which no good and upright man feels otherwise than chagrined and horrified. Whilst the Somerses, the Hardwickses, the Holts, and the Erskines of England; and the Marshalls, the Kents, and the Choates of our own favored land, have reflected a glory upon the class which they so highly adorned, it is not to be forgotten that such monsters as Jeffreys, and Macclesfield, and others, whose names all upright attorneys and high-souled men are

reluctant even to pronounce, *have lived*, and have left behind them memorials of dishonor, the humiliating mention of which can never cease to kindle afresh the sentiments of lamentation and contempt.

It must be obvious to all but those whose deplorable obtuseness of intellect no reasoning can penetrate, that the indiscriminate advocacy of right and wrong, *for money, or for money's worth*, is a fearful trial for the soul of man in its present feeble and degenerate state, and that members of the bar of no little respectability in certain social circles, have before now been known, with too careless a scrutiny of facts, to make engagements for the rendition of professional service to individuals, who, on fuller investigation, they can not avoid discovering to have been guilty of abominable knavery, is a position not to be denied; and if Lord Brougham be correct in asserting that no discovery of corruption or turpitude on the part of his once recognized client can justify the lawyer in ceasing to represent his interests, it is manifest that the dignity of a useful and venerated profession may be occasionally put in jeopardy, in the way just indicated, by men who would be as far as any other individual that can be mentioned, from *deliberately* doing aught which the sternest and most upright moralist would hesitate to sanction and defend.

That, upon the whole, at least for some generations past, in all countries where lawyers are known, their example and influence as a class, have been, in general, favorable to sound morals, as well as to the advance of civil and religious freedom, I do not myself at all doubt; and I have little fear that a majority of the attorneys in these United States will ever fail to remember that the world has a right to look to them confidently for the avoidance of all those wretched arts of chicane and knavery which some whom our highest courts are sometimes compelled to recognize as entitled to address them, have been known unscrupulously to put in exercise, and unblushingly to defend. Long may the members of the American bar, in general, and the members of the bar of the Southern and Southwestern states in particular, bear vividly in mind, that by them, if at all, are the hidden villainies of the world

to be brought to light and to be punished; profligacy, however plausible, to be unmasked and brought to shame; and the betrayers of the cause of freedom to be consigned to undying infamy. Let them ever recollect that it is their high and inestimable privilege, by judicious and seasonable counsel, to rescue their clients from the fangs of merciless cupidity, and from unmerited ruin; to defend their characters against unjust reproach, no matter how potential may be their assailants, and whether these assailants shall be few or many; to rescue their lives, it may be, from the perils in which calumnious accusations may have involved them;—that on the bench, at the bar, in grave deliberative assemblies, or as the sworn official advisers of government, glorious opportunities are presented to them of earning solid and enduring fame; of proving themselves to be great national benefactors, the defenders and upholders of such civil institutions as the world has never seen but once; and the fearless and indefatigable champions and promoters of social reform and progress.

Before these general remarks are brought to a close, I must ask permission to cite a short and gratifying extract from the pages of one, of whose profound abilities and marvelous scientific attainments America and mankind in general may be justly proud. Dr. Draper, in his "Intellectual Development of Europe," speaking of the two professions of law and medicine, says: "It is to the honor of both these professions that *they* never sought a perpetuity of power by schemes of vast organization; never attempted to delude mankind by stupendous impostures; never compelled them to desist from the expression of their thoughts, and even from thinking, by alliances with civil power. Far from being the determined antagonists of human knowledge, they uniformly fostered it, and, in its trials, defended it. The lawyers were hated because they replaced supernatural logic by philosophical logic; the physicians, because they broke down the profitable but mendacious system of miracle-cures by relics and at shrines."

But it is time that I should proceed to the immediate task before me. Without dilating further, for the present, upon the members of the bar flourishing in the state of Alabama, be-

tween the years 1825 and 1830, and for some twenty years thereafter (some of whom will demand more or less notice hereafter), I must ask the reader to descend, in imagination, with me, the Mississippi river, in the month of December, 1830, for the purpose of surveying the condition of the bench and bar there at that period, and tracing a number of scenes which afterwards occurred in that stirring region, and of which I was myself a very close observer.

I journeyed, during the year and month just named, to the city of Natchez, then a place of much commercial importance, and possessing a population full of intelligence, enterprise, and refinement. There Burr had been the recipient of a cordial and splendid hospitality, on his first descent to New Orleans, where he was expecting, in concert with General Wilkinson and others, to mature his grand scheme for organizing a new Anglo-American empire in Mexico. In the little village of Washington, only a few miles from Natchez, had he undergone that memorable judicial examination which, despite the energetic prosecution of the afterwards celebrated George Poindexter, speedily resulted in his honorable acquittal. Here sojourned, for some years, the ill-fated Blennerhasset, whose paradisaical residence on an island of *La Belle Riviere*, was on the occasion of the trial of Burr for treason, afterwards so gorgeously depicted by William Wirt. In Natchez I found residing, when I reached there, several most accomplished and affluent citizens who had been the known associates of Aaron Burr; among whom were the financial magnates of that period, James C. Wilkins and Stephen A. Duncan. The very hotel at which I was entertained in 1830, was kept by a Mr. Parker, who was also one of the "Burr men," as they were called, and from whose lips I heard much of the famous expedition, in which he was not at all ashamed to acknowledge that he had borne part. On the very night that I reached Natchez, I saw the son of Blennerhasset lying dead drunk upon the pavement in front of the Parker hotel, and who (as I was told) having been, during the day which had just closed, refused by the medical board of the state, then in session, a license to practice the *curative* art, had solaced his

chagrin by huge potations of alcoholic fluid. *Sic transit gloria mundi!!*

The supreme court of the state was sitting when I reached Natchez, and many attorneys were in attendance thereupon, some of whom lived in remote counties. I had brought with me letters of introduction to several prominent members of the bar, whose civilities to me were of a far more marked and cordial character than I had even anticipated. The supreme court was at that time composed of five judges; whose decisions, up to about that period, had been, a short time before, placed in the hands of a diligent and accomplished lawyer for revision and publication. These decisions will be found embodied in a single small volume known as Walker's Reports, but few copies of which are now extant, the work itself being mainly of value because of Mr. Walker's copious and learned notes, with which it is besprinkled. The names of the supreme judges were as follows: Turner, Child, Nicholson, Black, and Cage.

Chief Justice Edward Turner was a man of uncommonly striking appearance. He must have been considerably more than six feet in height, slenderly and even delicately shaped, with a bright and genial countenance, and of exceedingly kind and conciliatory manners. He was born in the old county of Fairfax, in the state of Virginia, and, as I have heard from his own lips (and which I remember to have once seen mentioned in a printed circular over his name), was grandson to the Mr. Payne whom Weems, in his *Life of Washington*, reports to have once had a serious collision with the Father of his Country at Fairfax Court House, when Washington was there engaged in the raising of military recruits for the ill-fated Braddock campaign. This historic incident Mr. Weems seems to have regarded as worthy of being transmitted to posterity, by reason of the fact that it presents perhaps the only occasion when Washington was known to have been guilty of offering to any individual an unprovoked insult, as on account also of his having set the meritorious example of at once tendering the *amende honorable*. Early in life, Judge Turner, with most of his Virginia kindred, removed to the state of Ken-

tucky, and located in the neighborhood of Lexington, where so many distinguished men have since flourished. There he read law with the once famous George Nicholas, the intimate friend of Thomas Jefferson for many years, and to whose hands Mr. Jefferson will be remembered to have transmitted the *original draft*, in his own hand-writing, of the never-to-be-forgotten Kentucky resolutions of '98-9; in which it is emphatically stated, that for certain palpable breaches of the federal constitution, "*nullification is the rightful remedy.*" Mr. Nicholas was always mentioned by Judge Turner in terms of respect and gratitude, and to his valuable instructions he was disposed to attribute much of his own subsequent success as a lawyer. On migrating to Mississippi, then a territory, Judge Turner established himself in the bosom of a small interior village, where he commenced the practice of his profession, holding at the same time the office of justice of the peace, which latter he found quite profitable. Having there accumulated several thousand dollars, in a few years he removed to the city of Natchez, where he soon took very creditable rank as a lawyer, in time made a large fortune, became eminently popular and influential, and was at last elected to the dignified station which he now held. His intellect was of a sound and practical cast, his industry was most remarkable, and he was of unsurpassed integrity. His warmest friends did not claim for him any very extraordinary knowledge of law as a science, and he had no literary attainments worth noting, beyond the sphere of his own chosen profession. He was a most exemplary person in all the domestic and social relations, and, on several trying occasions, and especially in the perilous season of 1851, is known to have given evidence of a steady and fearless patriotism worthy of the best ages of Greece and of Rome. His devotion to the federal union was as intense as that of Mr. Clay himself, of whom he was always a great admirer.

Judge Child was quite a *sui generis* personage. He was a native of New England, was said to be of good parentage, and had been educated in the best New England style. He was a good Latin and Greek scholar; had read law with

both attention and success; had traveled a good deal; knew much of the human character; was not at all choice in his companionship; drank freely; swore hard; was lively in social converse, but much given to satirical remark; in colloquial controversial dispute was supposed by some to have greatly excelled; spoke kindly of nobody; delighted much in the use of fire-arms and in hunting; was a good horseman; of fierce and indomitable courage; believed devoutly in the duelling code; spoke slightly of womanhood in general, and lived and died a bachelor. He was about five feet seven or eight inches in height; of a body as long in proportion to the distance of his head from the ground, when he was standing erect, as his legs were short. His mind was agile and vigorous; he always expressed himself, in his written opinions, with clearness and precision; and always with a decided aversion to long and flatulent speeches, to turgid declamation, or the copious citation of books of authority. He exclaimed from the bench of the circuit court in Port Gibson, once, when a lawyer of some standing had, after reading in his hearing the whole of quite a long judicial opinion, announced with an air of pleasant exultation, that he had lying before him, at least *seventeen* decisions of various respectable courts precisely to the same effect, to all of which he proposed to invite his honor's attention, "What! Do you say that these authorities are all to the same effect?" "Yes, sir," answered the delighted and learned advocate, "I do; they are all to the same effect, precisely." "I am really rejoiced to hear it," said the sneerful judge; "and you will please have the goodness to read again the decision I have already heard read with such exquisite pleasure; as I thought it read very well; and if you will read it over again sixteen times, we shall all understand it perfectly, and be able to give it such application as may be right, to the case now to be decided."

On another occasion, when holding court in the city of Vicksburg, my old and worthy friend, Judge Coalter, commenced reading a few extracts from a legal authority of the highest character, in elucidation of a question which had arisen on demurrer. He had scarcely opened the book before Judge

Child interrupted him, and said, "Judge Coalter, put down that book; I have read all the law in the world, and recollect well what I have read. I want no aid from the musty volumes you have brought into court. If you have any *original* views to bring forward, I will listen to you; otherwise I think you would do well to take your seat." Coalter, in mute surprise at this wonderful amount of learning so modestly confessed by the judge, took his seat accordingly.

I heard Judge Child relate one day, that he had a few weeks before returned from a visit to his native town in New England. His father, he said, having recently died and left him some real estate, on arriving at the place where his property was located, he sent a message to a tenant of the premises, demanding the payment of the rent which remained unpaid. "And what," said he, "do you think of this fellow's impudence? He refused to pay me a dollar, and declined recognizing me as landlord; whereupon I hurried to his residence, had myself announced, and on the scoundrel's making his appearance, I told him that I had come to force him to '*attorn to me*,' and if he did not do so at once, I should certainly give him a severe caning—calling his attention significantly to a large cane which I then held in my hand. You may rest assured that the delinquent tenant did attorn, and in double-quick time."

Judge Child was often known to sit on the bench in some of the then newly-settled counties of the state, when so much overpowered with the draughts of intoxicating drink which he had recently imbibed, that, notwithstanding his ability and learning, he was wholly incapable of conducting the business of the court in a decent and orderly manner. This was particularly the case in the town of Benton, during one of the last courts he ever held in the state, on which occasion I well remember his calling up to the bench, one day during the trial of a most important case, a drunken attorney to preside in his stead, whilst he went across the public square to a low drinking shop to "wet his whistle," as he said. It was in this town that after he had been holding court for a week, and rendered many judgments, he fell into a fit of ill-humor, and avenged

himself on the members of the bar at whom he had taken offence, by suddenly mounting his horse and riding out of town, after having made an order for final adjournment *without signing the minutes*—thus leaving all the judgments he had been granting mere *nullities*.

It is certainly true that the very outrageous official conduct of Judge Child, together with the ascertained impossibility of getting rid of a judge misconducting himself ever so grossly, by *impeachment*, contributed very materially to the change which was at this period effected in the state constitution—by means whereof the election of judicial officers was vested in the people, and the life-tenure, then existing, changed to a term of years.

I have already stated that Judge Child was not averse to the settlement of personal difficulties upon what is called the field of honor. Indeed I have scarcely heard of a more desperate duel than that which occurred between himself and a gentleman whom I once knew well, General Joor. The latter was a native of South Carolina, and was not a little proud of his place of birth. He was an ardent admirer of John C. Calhoun, and sympathized warmly with the body of politicians in the South, of which he was the acknowledged head. General Joor was in affluent circumstances, a planter by occupation, a kind-hearted and sociable gentleman, but of a temperament highly inflammable. I never knew the precise origin of the dispute between himself and Judge Child which resulted in the hostile meeting already referred to. They agreed to a *rendezvous* on the verge of the little village of Woodville, in the vicinage of which they both resided, where the parties were to appear on a certain day, without regular seconds on either side, armed and accoutred according to their own taste, and to fight in such manner as might be most agreeable to them. Child came attended by a large mulatto body-servant, who drove a vehicle of some kind to the field of combat, loaded down with muskets and pistols, which he was to hand out to his master as the exigencies of the battle might render necessary. This duty he is said to have performed with singular coolness and address. The parties were, 1 be-

lieve, both severely wounded, but neither of them mortally. General Joor I know to have borne the marks of the conflict upon the fingers of his right hand all his life afterwards.

And here I am tempted to relate, by way of episode, another affair of this kind, which occurred some years subsequent, between the oldest son of Benjamin Watkins Leigh of Virginia, and Colonel Fielding Davis, who was afterwards federal marshal in Mississippi, and a very worthy and chivalrous gentleman. Leigh was an exceedingly promising young member of the bar of Woodville. The parties fought not far from Woodville, and Leigh was unfortunately killed.

Judge Ira R. Nicholson, also a judge of the supreme court at the period referred to, was born in Georgia, and was for some time a lawyer in the southern part of Alabama, before he settled in Mississippi, where he very soon obtained a respectable standing at the bar. I practiced before him for some years, and ever found him good-natured, affable, attentive to his official duties, and in all respects a trustworthy person. He was never at all inclined to make himself a profound jurist, and was generally occupied, when not on the bench, with pursuits not at all calculated either to enlarge the amount of his legal attainments, or to expand and invigorate his intellect.

Judge Black was born somewhere to the north of Mason and Dixon's line, and his education had been there so well attended to as to enable him to teach a select classical school for several years before he took his position at the bar. He was very young when raised to the bench, and had awakened expectations of high distinction in his profession, never fully realized. Being elected to the position of United States Senator in place of Judge Powhattan Ellis, who had been just appointed federal district judge by President Jackson, he there, as the colleague of the celebrated George Poindexter, opposed very warmly the Democratic administration then existing, and, in consequence lost his popularity in Mississippi. After leaving the senate he recommenced the practice of law, but gained little additional reputation at the bar.

Judge Cage was born and reared in Tennessee, and was a member of a very extensive family connection in that state, a number of whom I have very favorably known. He was a man of much intellectual vivacity; of a warm and sympathetic heart; brave almost to a fault; exceedingly energetic and enterprising, and the delight of every social circle into which he entered. He was fond of novel reading and politics, and had but little relish for law books. His congeniality of temper; his overflowing facetiousness; his rare talent for relating amusing personal anecdotes; his kind and unassuming manners, and his well-known sincerity and manliness, made him a general favorite. He served, between 1830 and 1834, for a short time in Congress, and took part in some of the stormy debates of that period, but soon voluntarily retired to a fine plantation which he owned in Louisiana, where he lived for many years in a state of cheerful and unbroken repose.

Of such materials was the Supreme Court of Mississippi composed when I first beheld it in session. Of the members of the bar there convened I have some vivid and pleasant remembrances, which I will now as concisely as possible relate.

Robert J. Walker was at that time universally acknowledged to be, among the lawyers of the state then surviving, *facile princeps*. Of him I will speak more particularly hereafter.

Thomas B. Reed, William C. Griffith, and Robert H. Adams had, all of them, disappeared, only a year or two before, from that grand forensic theatre where they had, severally, acted so distinguished a part. Their names were still upon the lips of hundreds of those who had familiarly known them. Mr. Reed was acknowledged to have been profoundly versed in the mysteries of the common law, and to have been singularly familiar with the reported decisions both of this country and of England. He had a remarkable aptitude for the profession which he had adopted, and had been for many years known, both in Kentucky (his native state) and in Mississippi, to have been a very devoted student. In general learning he was deficient; he lacked fluency of expression, and never was known to attempt what is called forensic eloquence. His person

was large and commanding ; he dressed with much taste and elegance ; and his manners were marked with a loftiness bordering on hauteur, which impressed ordinary beholders with mingled awe and aversion. He was much admired and extolled by several of the younger members of the Natchez bar, one or two of whom were accused of imitating both his style of speaking and his somewhat ostentatious costume. During the short period that he occupied a seat in the United States senate he gained no little reputation, and one of his last speeches, upon what was called the judiciary question, was much commended in the newspapers of the time, and might yet be read with no little profit and entertainment.

Mr. Griffith was born in Maryland. He fell a victim to yellow fever in the summer of 1828 or 1829. He had enjoyed all the advantages which high birth, early association with persons of taste and refinement and a finished education could supply. He was a man of much and varied learning, had mastered the science of law in all its branches, and had become alike expert and ingenious in argument, and skilled in the mysteries of the art rhetorical, when he made his first appearance at Natchez, some fifty-five or sixty years ago. I am quite satisfied that he was, at the time of his decease, by far the most polished and fascinating speaker that a Mississippi audience had ever then heard. His face was full of benignity ; his gesticulation was most graceful ; and his voice was melody itself. He had, when thus suddenly cut off, accumulated a considerable fortune, had been married to a most beautiful, wealthy, and accomplished lady (the daughter of Judge Turner), and seemed to be in reach of the most wide-spread and lasting renown.

Robert H. Adams was, in some respects, one of the most remarkable men that this country has produced. Born in the valley of Virginia, of poor and obscure parents, he was bound apprentice to the cooper's trade, at which he is well known to have worked for several years subsequent to his reaching the years of manhood. His early education must, of necessity, have been exceedingly defective. By whom or by what circumstances his attention was first turned to the legal arena, I

have never been able to learn. Possibly an inward consciousness of superior native endowment may have, in this instance, as in so many others, supplied the needed *motive* power. It would be pleasing to know something of the budding hopes of such a rare original genius; to ascertain the primordial food upon which his eager mental appetite was nourished, and to learn that he was in some degree aided in his early studies by the counsels of some sympathizing and generous patron. But in regard to these matters we have been left entirely in the dark. He took his position at the bar of East Tennessee, so far as is now known, unfriended and undirected, at a time when it was supplied, as it ever has been for the last three-quarters of a century, with able and successful attorneys, many of whom have since reached civil positions of the highest dignity. Here he was able to secure a competent living, but his earnings were not sufficient to satisfy his soaring aspirations, and he determined to pass the Cumberland mountain range and try the chances of professional success in Nashville, then a promising village. Here he remained only long enough to obtain the means of journeying still further west, and he then came to Natchez, where he seems almost immediately to have attracted favorable notice and to have become recognized as one of the most astute and vigorous reasoners, as well as one of the most winning and impressive advocates that this city, so prolific in gifted men, had ever known. Robert H. Adams could never justly lay claim to be regarded as a man of erudition. It is doubtful whether he at any time acquired more than a smattering of any language save that vernacular tongue in the use of which he afterwards became so potential. It is certain that the lucubrations of Aristotle, of Quintillian, and of the other ancient masters of dialectics and of the art rhetorical, were ever to him as a sealed fountain. He has never been even suspected of looking with a critic's glance upon the wondrous classic writers of ancient Greece and Rome. Newton and Locke, Leibnitz and Descartes, Bacon and Hobbes, he had probably only heard spoken of. The best speeches of Demosthenes and Cicero he had doubtless perused in an Eng-

lish dress; and it is to be supposed that he had pored with delight over the imposing orations of Burke and Chatham, of Fox and Pitt, of Erskine and of Curran. With the history of his own country he is said to have become well acquainted, and often to have alluded to the great American statesmen and warriors of our own revolutionary era; but it is painful to reflect that his vigorous and elastic intellect had never received any regular and methodical training whatever, and that he had been thus far precluded from a thousand renowned sources of melioration and improvement, to which many minds of far inferior grade had enjoyed easy and unobstructed access. And yet it is certainly true that Robert H. Adams had, in some way or other, succeeded in impressing all those who had listened to his animated and persuasive addresses in court, with the conviction that he was indeed one of nature's most wonderful productions; that he was able to encounter any speaker of his time, and in a manner creditable to himself, upon any of the great questions which he was called to discuss; that he was an undoubted master of all the legal lore which he had occasion to adduce; that he could make a statement of facts in the hearing of the jury, in a manner so lucid, so concise, and, withal, so suggestive, as to render it impossible that the most adroit and artful adversary should be able to confuse or becloud them; that he could be as witty and amusing as the nature of the case which he had in hand would admit of; that he could be as bitterly sarcastic as if he had been all his life employed in learning the language of obloquy and denunciation; that he could talk when he pleased in the melting strains of heart-moving pathos, or thunder forth against some known offender such indignant tones of contempt and abhorrence, as to compel the most hardened criminal to tremble before the picturings of his own enormity, and despair of longer holding in concealment from the eyes of mankind the dark secrets of a soul up to that moment confident of evading all scrutiny and of obviating all serious suspicion of iniquity. Most of those who knew Robert H. Adams well, undoubtedly adjudged him to possess more of native ability than any of his distinguished rivals for foren-

sic renown in Mississippi; and had he lived a few years longer, and used those means of intellectual culture which a seat in the national senate is well known to bring within reach, there is no knowing what amount of fame he might have acquired, or what wonders he would have achieved upon the theatre of national affairs. He was much beloved by all who held familiar intercourse with him, and he is believed to have departed from the the world leaving no enemy behind him.

After the almost contemporaneous demise of the three extraordinary personages I have just named, it has been already stated that Robert J. Walker became the acknowledged head of the Natchez bar. His elder brother, Duncan, had been for some years a resident of Natchez, when, on the elevation of his then professional partner, Judge Turner, to the bench, he invited Robert to leave his native state (Pennsylvania) and join him in the practice of law in Judge Turner's place. The education of Robert J. Walker was as complete as the schools of that period could supply. He had studied both the common and the civil law, with assiduity and success. He was said to have obtained in addition a diploma at the renowned medical college of Philadelphia. He was thoroughly versed in the Greek and Latin languages. He could both speak and write French with facility and elegance. He had given much attention to mathematical studies, and was quite a proficient in astronomy, chemistry, botany, geology, and mineralogy. He could write smooth and flowing verses in English, and was in early life much inclined to exercise himself in this way. He was the most untiring student I have ever known, and he had such a memory as few men besides himself have ever displayed. He could write off or dictate to an amanuensis a long speech upon any subject which had closely engaged his attention, and then repeat it *verbatim* without the aid of a single note. This wonderful fact is known to many thousands. Mr. Walker always made the most ample preparation for an argument in court, or for a speech elsewhere, and then often poured forth such a stream of ideas as were greatly entertaining and edifying, and often astonishing, to those who listened

to him. He possessed, as I have thought, no large amount of originality ; his imagination had been cultivated to the utmost, but its picturings were deficient in vividness and variety of coloring ; and his appeals to the passions were often feeble and ineffective. He always spoke and wrote with strict scholastic accuracy, and with a clearness and precision which might well defy criticism ; but he displayed on no occasion any remarkable felicity of diction, or such exquisite beauties of phraseology as to draw forth from persons of taste and sensibility expressions of special admiration and delight. He was possessed, perhaps, of as large a fund of learning of almost every description, as almost any man of his times ; but others, with far inferior attainments, have been able to effect far more than he can be supposed to have done, and have shown a capacity for persuading and commanding their fellow-men, far beyond anything which the history of Mr. Walker can be said to have brought to view. I do not recollect of ever hearing any important subject mentioned in Mr. Walker's hearing of which he seemed to be altogether ignorant ; but he did not always show off his information to the best advantage, and he sometimes appeared to impede the action of his intellect by constraining it to bear up under a larger mass of scientific facts than it was altogether capable of supporting. Mr. Walker was a man of strong and generous instincts ; of great simplicity and kindness of heart ; of a most charitable and confiding temper ; but he was far from being always judicious in the selection of his friends, or the recipients of his confidence. His person was well proportioned but decidedly diminutive ; his features were as delicate in their conformation, and as benign and playful in their expression as if he had himself belonged to the gentler sex. He is said to have had much personal comeliness when a child, as might well have been believed. His voice, in conversation, was, on all ordinary occasions, soft and even tender in its accents. In the delivery of a speech of much importance, there was in that voice something which I have never seen so strikingly displayed in any other instance ; its tones were either high and resounding or so low as scarcely to be heard ; the transitions of which

were alike sudden and extreme, without the least approach to the famous *os rotundum* so much lauded by Cicero. In listening, therefore, to a long speech from Mr. Walker, however cogent it might be in argument, rich with instruction, and varied in its topics, the ear became inevitably wearied with the constantly recurring iteration of sharply contrasted sounds. Mr. Walker would, I feel assured, have very greatly excelled as a law professor at some university, and on the bench he would have doubtless earned most extended and lasting fame.

Next to the two Walkers, Spence M. Grayson oftenest appeared at the bar of the Natchez courts in 1830. He was born either in Alabama or in Virginia; I believe that he was a descendant of that Grayson so well and favorably known in the early history of Virginia, and for several years a representative of that state in the Congress of the Union towards the close of the last century. Spence M. Grayson had been engaged in the practice of the law for some years at the period of my last seeing him. He was a fine-looking man of about thirty years of age; delighted not a little in the adornment of his person; was a plain, direct and sensible speaker; well informed in his profession; honest, industrious and pains-taking. He had many cases in his hands, was said to be making money rapidly, and had been just married to a most interesting lady with whom he seemed to enjoy much happiness. He died some thirty years since, leaving a wife and several children. One of these, a son, whom I once knew familiarly, became a married man about twenty years ago. He did not live happily with his wife, whom I saw in California in the year 1858. What was my surprise at learning a year or two ago, that this female was the same person who had been known so extensively since as the celebrated *Laura Fair!*

Robert H. Buckner was also a member of the bar of Natchez in the year 1830, and, as the partner of John T. McMurren, enjoyed no little personal prosperity. He was a quiet and unobtrusive person, much given to the study of law books, and in truth reading little else at any time. He was an eminently safe and honest legal adviser, but excelled little as a forensic

speaker. He afterwards became chancellor of the state, in which office, though acquiring no extended fame, he commanded alike the respect of his brother attorneys and of the country at large.

Much was I entertained during my sojourn of a few weeks in Natchez with various learned and able arguments in court which I there heard, and not less, I may well say, with the pleasures of social intercourse to which I was there admitted. I shall have occasion hereafter to speak of several gentlemen whom I there met, and of whom I have not thus far made mention, but who stand honorably enrolled among the attorneys of Mississippi of a former generation.

Whilst making ready to leave Natchez, I fell into company, by accident, one morning, at the hotel where I was staying, with a young gentleman who at the very first sight impressed me with a deep and peculiar interest. He was apparently in delicate health, and was evidently suffering also from serious depression of spirits. He gave me some account of his personal history, which I found to be not a little tinged with romance, and marked with several incidents well calculated to awaken feelings of tenderest commiseration.

He had a special claim upon my sympathy by reason of the fact that he was, like myself, a native of Virginia, and a friendship at once sprang up between us which lasted, without the least abatement of kindness on either side, up to the period of his lamented decease, some seventeen or eighteen years ago. I refer now to Edward C. Wilkinson, a consummate scholar, an erudite lawyer, and an upright and pious gentleman. After having achieved much success in his profession, and after having surrounded himself with multitudes of friends and admirers, he became involved in a tragic affair in the city of Louisville, Kentucky, of most melancholy import, which resulted in his being tried for murder, amid the raging of a furious local excitement, and in his being, in the end, honorably acquitted. This case is one of marked celebrity, and in defence of Judge Wilkinson, S. S. Prentiss made, in association with the celebrated John A. Rowan, one of the ablest speeches of his life—in opposition to Benjamin Hardin, whose extraor-

dinary powers were most vehemently exerted in order to bring about a conviction.

Judge Wilkinson and myself traveled up the Mississippi river in company, in January, 1831, as far as Vicksburg, where he left me for Yazoo City, which was afterwards his place of residence for many years, and where his memory is yet profoundly respected. I remained in Vicksburg, where I labored for professional success for some years amid localities strangely marked with events of a startling and tragical character in after days. There I found many lawyers of decided ability, some of whom have since borne a distinguished part in the history of the country, but nearly all of whom have long since ceased to live.

I had not been in Vicksburg many days, when the inn-keeper, in whose house I was staying, called my attention to a serious personal grievance which he had recently experienced, and for the redress of which he was disposed to appeal to judicial arbitrament. The mayor and common council of Vicksburg had passed an ordinance several months before for the closing of his hotel, on the alleged ground that a case or two of small pox had broken out among the inmates thereof. The hotel had been accordingly shut up, and, as mine host insisted, this had deprived him of a large amount of valuable custom. I was glad to have so early an opportunity of entering the field of litigious strife, under circumstances apparently so auspicious, and, accordingly, I lost no time in the commencement of an action for damages. The declaration filed in the case was responded to by a *general demurrer*, and the question was thus raised whether the corporate authorities of the city possessed adequate authority to adopt and enforce such an ordinance as the one complained of. Before the case came on to be argued, S. S. Prentiss, then a young and inexperienced lawyer, like myself, arrived in Vicksburg, with some intention of locating himself there. I invited him to aid me in the argument of the demurrer, which he very willingly agreed to do, and soon after did, in point of fact, make an argument of such extraordinary force and ingenuity, that he was immediately invited to become a member of a law firm

in Vicksburg of the highest rank there. Thenceforward Mr. Prentiss' forensic career was one of uninterrupted prosperity, and his reputation as an advocate continued to expand and display additional splendor, up to the end of his mortal career.

I shall venture here to repeat what I have thought proper to say of this remarkable person elsewhere. "About two years before I first saw Mr. Prentiss, he had landed at Natchez, as I repeatedly heard from his own lips, with a single dime in his pocket. He had, at the time, no acquaintance there, and had, as yet, not studied a profession. His college course had just been completed at an excellent institution in New England, and, being quite proficient in the several branches of learning to which he had been giving his attention, he determined to make an effort to obtain a small private school. In this he succeeded, and he followed this respectable vocation for a year or two, during which period he was applying himself with extreme diligence to the study of the law. The distinguished Robert J. Walker, then a lawyer in full practice, was kind enough to open his library to his eager and enquiring mind, and he was soon able to obtain license to practice in all the courts of the state of Mississippi.

"There was much that was remarkable in the appearance and bearing of Mr. Prentiss at this time. He was not more, I think, than five feet six and a half inches in height, and was very stoutly built, and well proportioned. His head was somewhat large when compared with his body; it was in truth a head that a Grecian artist might well desire to copy. His forehead was wide, high, almost semi-circular in its outline—so admirably were all the phrenological organs developed. His eyebrows were full, but not bushy, and were gently arched. His eyes were large and bright, and of an expression in which the absolute fearlessness of his nature was very happily blended with the rarest geniality of spirit, and the keenest relish for the ludicrous. He had but a moderate beard, and always kept his face cleanly shaven. His chest was one of uncommon expansiveness, and, though perfectly straight between the shoulders, a stranger approaching him from the rear could

not avoid being struck with the singular breadth and fullness of the whole tergal superficies. His nose was Grecian, and was both beautiful in shape and highly expressive. His upper lip was a little shorter than is customary, and of a flexibility I have never seen equalled. Often was he seen to curl it up, both in mirth and in anger, displaying to view a row of strong, well-set, and beautifully white teeth. He had all his life suffered from a lameness in one of his feet—suggesting to the historic beholder, a similar pedal blemish, alike in Agesilaus and in Byron—and he was said to have a good deal of sensitiveness as to this matter, though if such was the case, I never was able to discover it. He hobbled, of course, very perceptibly in his gait, and would, I conjecture, have found it difficult to walk at all without the aid of a large stick which was his perpetual attendant. When I was introduced to him forty-two years ago, Natchez was already full of his fame. He had delivered several speeches at the bar, which all admitted never to have been equalled there, either in vigor of argument, brilliancy of expression, or rich and flowing facetiousness. Though exceedingly modest by nature, yet the signal forensic triumphs which he had already achieved over men of established reputation, had inspired him with a manly confidence in his own powers, which could not but be more or less apparent, both in his aspect and demeanor, and alike amid the discussions of the forum and in ordinary converse. I was talking only a short time since with the Hon. Joseph Holt, in reference to his former illustrious rival in oratory at the Mississippi bar, and was not at all surprised to find that his opinion of Mr. Prentiss' extraordinary powers was altogether in harmony with my own. I have been long satisfied that in regard to all the faculties and graces which constitute the veritable orator, Sargent S. Prentiss was equal to any man of modern times, and such is my estimate of him in this respect that I should distrust either the judgment or sincerity of any one who, after having once listened to him in a case calculated to bring his remarkable abilities into full display, should express a different opinion. At times he was indeed most electrical in his utterances, reminding one at all versed in Hebraic

lore, of the soul-thrilling strains of an Isaiah or an Ezekiel; whilst, on other occasions, yet well remembered by many still living, his wondrous harangues imparted credibility to all the gorgeous, and, perchance, over-wrought descriptions which we have read in relation to the majestic thunderings of a Pericles or a Henry, or of the soul-dissolving pathos of a Somerfield or a Maffet. I was not at all surprised to see it published in the newspapers of Boston many years ago, on the occasion of Mr. Prentiss' visit to that city for the first time, that even in the midst of that memorable dinner-speech which he was then delivering, Mr. Webster and Mr. Everett, with eyes overflowing under his magic enunciations, were heard generously whispering to each other, 'We have never heard such eloquence as this before.'"

Whilst all who have had the good fortune to hear Mr. Prentiss speak in court will, I am sure, agree with me in the opinion that he was very superior to most of those with whom he came in contact in the management and discussion of causes, both on the civil and criminal side of the docket, it seems to have been generally thought that his grandest manifestations of the peculiar powers of the *advocate*, as distinguished from mere *logical analysis*, occurred in the prosecution and defence of persons charged with criminal offences. Such certainly is the conclusion to which I have myself arrived, after much reflection, and after much consultation with others. Whether his powers of persuasion were more fully put in requisition in vindicating the innocent against unjust and virulent assaillment, or in the bringing of great offenders to justice, it would be difficult to decide; for he seemed, in cases of every description, to be entirely equal to the exigencies of the occasion arising, and he most generally succeeded in surpassing the expectations of all who came to listen to him. I should, though with some hesitation, decide that his speech in prosecution of Alonzo Phelps, and that against Mercer Byrd were his forensic master-pieces.* "I chanced to be enlisted in the defence both of Phelps and Byrd, and had, therefore, a most favorable opportunity of appreciating the

* *Vide* Casket of Reminiscences.

power displayed on the part of the prosecution. Alonzo Phelps was a native of New England. According to his own account of himself, he had, in a fit of jealousy, slain a rival lover in his native vicinage, secreted the body of his victim in a neighboring mill-pond, and fled to the valley of the Mississippi. He had here been a wanderer for many years, seldom entering any human habitation, and subsisting meanwhile altogether upon the raw meat of squirrels and other wild animals which he had captured in the chase. He had long infested the banks of the Mississippi; had committed eight murders and more than sixty robberies, and had some dozen times broken jail and evaded the punishment of the law. Strange to say, he was a ripe and accurate scholar, and when taken prisoner, a few weeks subsequent to the perpetration of his last murder, had, as I personally know, a much-worn pocket-copy of Horace in his possession, which he was able to read with much more facility than our ordinary college graduates would be likely to evince, and with a far keener relish for the quiet and unpretending beauties of the poetic friend and *protegee* of the great Mæcenas than Lord Byron reports himself to have at any time felt. The trial of Phelps had attracted to the Vicksburg court-house a vast assemblage of excited citizens. Judge Montgomery, an able and learned functionary, who, I am glad to know, is still living, presided on the occasion. I was aided in the defence of the prisoner by two very accomplished and able gentlemen, John Gildart, Esq., of Woodville, and Mr. Pelton, then a resident of Natchez, but now a wealthy sugar planter of Louisiana, and a most worthy and interesting person. General Felix Huston and several other attorneys of rank, co-operated with Mr. Prentiss and the district attorney in furtherance of the prosecution. The speech delivered by Mr. Prentiss would have enhanced the fame of an Erskine, a McIntosh, or a Curran. His delineation of the character of the accused was, indeed, most masterly, in the course of which he bestowed upon him the imperishable cognomen of 'The Rob Roy of the Mississippi,' in allusion to his having habitually, year after year, levied 'black mail' upon the unhappy travelers whom he had, from time to

time, encountered on the highways along the banks of the great river; hundreds of whom he had despoiled, and some of them under circumstances both romantic and ludicrous. Phelps had been, of course, relieved of his irons before being brought into court for trial, but it had been deemed expedient to surround him with an armed guard. His appearance on the occasion was very striking and impressive. He was a muscular, well-shaped man, about five feet eleven inches in height, and evidently possessed of great vigor and activity. He had a particularly fair complexion, though somewhat bronzed and freckled from constant exposure to the damp air of the river bank and the torrid rays of a southern sun. His hair was blood-red, and was much inclined to curl up in knots, and his crispy, snakelike locks stood stiffly up over and about his cranium, with a singularly fierce and menacing aspect. His keen gray eyes exhibited a curious blending of audacity and furtiveness. Prentiss' speech galled and irritated him greatly. When the orator was depicting the enormous and shameless criminality of the culprit, and most fiercely looked him full in the face, with a most withering look of scorn and indignation, I saw the muscles of this hardened criminal quiver with convulsive agony; and seeming presently to grow desperate, he bent forward a little and whispered in my ear: 'Tell me whether I stand any chance of acquittal, and tell me frankly; for if my case is hopeless, I will snatch a gun from the guard nearest me and send Mr. Prentiss to hell before I shall myself go there.' Never was I more embarrassed in my life. I saw that my robbing and murdering client was in dead earnest. I did not doubt that at this moment Mr. Prentiss was fully in his power. If he should slay him, he would deprive of life one whom I could not help loving and admiring much, despite the unkind relations then existing between us. Were Prentiss assassinated by the hands of this fiendish ruffian, immediately, too, after this whispering intercourse with me, who, of all that vast crowd, would hold me guiltless? I may have been wrong, but frankness constrains me to confess that I whispered back to Phelps, 'you are not in the least danger; we shall have no difficulty what-

ever in preventing your conviction, and shall presently introduce a motion for a new trial, or in arrest of judgment, which will save you from all further annoyance.'"

The jury in a few moments brought in a verdict of "guilty," as they could not avoid doing without the commission of the most shameless perjury; and Phelps escaped being hung upon the scaffold only by breaking jail and endeavoring to fly towards the river bank, in the attempt to do which he was shot down by the sheriff of the county, a most resolute and faithful officer.

I have more than once had occasion to declare that I have myself heard only one man whom, as an advocate in criminal causes of difficulty, I should think of comparing to Mr. Prentiss; and of the gentleman thus alluded to, I purpose to take somewhat more than a mere passing notice.

It was in the autumn of 1837 that the renowned Joseph Holt first made his appearance in the state of Mississippi. On his arriving among us, in the central portion of the state, he quickly ascertained that his fame as a supporter of the sound democratic creed of the ancient time, had preceded him, for the eloquent harangue which he was reported to have delivered in the national Democratic convention of the previous summer, in support of the nomination of Richard M. Johnson for the vice presidency, had been read with mingled surprise and rapture in every nook and corner of the land, and Mr. Holt had already become a great popular favorite everywhere, and especially among the appreciative and enthusiastic inhabitants of the rapidly advancing southwest. Such a reception was now accorded to him in the neighborhood of the Mississippi capital as must have been both surprising and gratifying to him, though he met the cordial greetings of his new-found friends with a bland and unassuming courtesy in which there was not a particle of weak-minded exultation or self-sufficient vanity. It was at that time whispered about among those who had known him in Kentucky that he had recently been the recipient there of a rare, and, perhaps, unprecedented personal compliment at the hands of the governor of that commonwealth, who had, in a very cour-

teous and respectful manner declined re-appointing him to the office of district-attorney which he had for several years filled with distinguished credit, on the ground that his powers as a prosecutor were such as, when fully exerted against an ordinary citizen charged with crime, rendered acquittal well nigh an impossibility. However this may have been, there certainly was nothing in the countenance or manner of Mr. Holt to indicate undue severity of temper or to suggest the idea that he could be induced either by venality or exorbitant personal ambition to give an over rigorous and oppressive operation to the criminal law, or to disregard the claims of humanity.

It has been elsewhere said by the writer of this article, that Mr. Holt, on becoming domiciliated in Mississippi, "lost no time in entering upon the brilliant forensic career now opening before him;" and that, "by an extraordinary display of professional diligence, as well as by giving constant evidence of ability, he succeeded in the short space of four or five years, in accumulating an estate larger than is seen to reward the labors of most lawyers in a life-time. In the argument of causes of the greatest dignity and importance, he was never known to put on a dogmatical or assuming manner, never seemed to forget the proprieties of his position, or indulged, to the least extent, in unseemly affectation or triviality. He always, when engaged in the duties of his vocation, had an air of serenity and mildness (not as common at the bar as it should be), and his then pale and somewhat sallow face was a little shaded by what seemed to be an expression of sadness; the tones of his voice, when he was not under the influence of some very strong and sudden emotion, were inexpressibly soft and touching, and, as he advanced from point to point of his never flagging discourse to court or jury, he became so marvellously fascinating to his enraptured audience that few who heard the opening sentences of his exordium, were able to tear themselves away from the scene until the closing words of his ever animated and fervid peroration had been pronounced. He indulged less than any speaker I have known in studied gesture or attempts at stage effect, and scarcely ever was known to withdraw his thoughtful and earn-

est gaze from the countenances of those whom he was addressing, for a single instant; and, strange to say, no one ever saw him, on any occasion, cast a glance of *inquiry* towards the surrounding audience, as if in quest of the wished-for signs of approval—now, alas, so customary. It was most evident that Mr. Holt was, even then, a well-read lawyer, and the style in which he expressed himself, either to judge or jury, bore evident marks of the highest literary culture.”

The first of the speeches made by him after his arrival in Mississippi that attracted any very particular attention, was one which he delivered in the court-house at Vicksburg, in certainly as remarkable a case as has ever been tried. An elderly individual by the name of Herring, and who had been for many years an extensive negro-trader, was charged with having murdered his own son, and the district attorney being much indisposed at the time, Mr. Holt was induced to give what aid he might choose to contribute towards bringing the alleged offender to justice. The affair had aroused the most intense interest in the community, and opinions were somewhat conflicting touching the guilt or innocence of the accused. Herring was quite a large cultivator of cotton, and divided his time between his residence in the country and one which he owned in town. His son, then almost of mature years, lived with him at his town mansion. It appeared that unpleasant, if not hostile feelings, had sprung up between father and son in connection with a colored mistress of the former, for whom he suspected his son of having become too partial. Herring, the elder, was a very free consumer of intoxicating liquids, and was generally, especially towards the winding up of the day, more or less under the influence of Bacchus. One evening, about twilight, the neighbors round about the Herring domicile were startled by the sound of a pistol, which had apparently been fired off in Herring's back yard. Many rushed to the spot for the purpose of ascertaining what had caused so unusual an occurrence, and several individuals, on entering the house, found young Herring bleeding profusely, and lying motionless upon the ground. Upon examining the body, a gun-shot wound was found, from which the blood

was still flowing freely, and in a few seconds the young man was no more. His father presented himself to view, but in response to the inquiries propounded to him, he said that a stranger had suddenly entered the premises, and, after firing at his son, had fled. This story was so confused and his manner so marked with embarrassment—wholly unmixed with paternal sympathy—as at once to awaken suspicions of guilt. It was noted as a striking fact, too, that he was altogether unable to describe the stranger, of whom he had spoken, or to explain in what manner he had entered the lot or made his escape. He could not even state in what direction he had fled. Those present resolved to search the house, and when doing so, found, on entering Herring's chamber, that some one had deposited a pistol there, under the pillow that lay at the head of the bed in which he usually slept. The pistol was yet warm, as if it had just been fired off. There was another shocking fact in the case: before the departure of the crowd, Herring coldly requested one of those present to have the body of his son interred—stating that he would be answerable for the burial expenses, and enquired, in addition, whether there would be any impropriety in his being present at the funeral ceremonial!

He denied most vehemently and persistently that he was the slayer of his son, and seemed to have but little apprehension as to the result of any legal proceedings which might be instituted. He gave bail for his appearance at court to undergo trial. Before the case came on to be tried, the excitement occasioned by the killing to some extent subsided, and as Herring was a man of wealth, and could afford to pay large fees to lawyers, and, possibly, even suborn witnesses, should this become necessary, there were not a few who supposed that his acquittal was at least a possible occurrence.

When the trial took place, and no testimony in addition to that which has been specified had been yet adduced, both Herring and his counsel appeared to be confident of an easy acquittal. The fact was unknown to them that another witness was yet to be brought forward who would be able to give evidence against the accused of a most conclusive character.

And now did this witness appear in court. There lived at the time, in a house adjoining Herring's, a woman who was in a very low state of health, and who seldom rose from the bed on which she was expecting soon to die. On the night of the murder, the weather was very sultry and enfeebling, and she made an effort to rise up and creep into the veranda of her house, in order to snatch a few breaths of fresh air. She had barely reached the threshold of her own door, when she heard the report of the pistol in Herring's enclosure, followed immediately by the exclamation: "*Oh father! you have shot me!*" To these words there was no reply; and this woman was the only human being, except Herring himself, near enough to hear the last words of the dying man. When all the other witnesses had been examined, as has been already mentioned, this female, to all appearance on the edge of the grave, was borne into the court on the arms of her friends, and detailed the facts of which she was cognizant, with a clearness and impressive solemnity which could leave no doubt upon the mind of any in the vast concourse there assembled, that the "*father*," whom, amidst the deepening shadows of that terrible night, she had heard addressed by his dying boy, in words of such damning accusation, could not possibly be any other person than the ruffianly and unrepentant prisoner then awaiting the just punishment of a cruelly violated law.

After what I have already said of Mr. Holt's powers as an advocate, I may well leave it to the imagination of the reader to body forth the speech which he was likely to enunciate upon such an occasion as I have described. That speech I have often heard alluded to by those who heard it, all of whom united in declaring it to have equalled, and even surpassed all the conceptions they had previously formed of the electrifying force of human eloquence. The glowing and overwhelming peroration is yet vividly recollected by hundreds, in which he compared the aged and hardened monster, whom he was there struggling to subject to the exemplary punishment of the law, to *Nero* as delineated by the pen of Tacitus—swollen and brutified by long-continued sensual indulgence—with a heart accustomed to crime and ob-

livious alike of the sacred obligations of filial duty and the all needful decencies of social life—gazing with those blood-shotten and cruel eyes of his upon the face of that now mute and voiceless mother whom he had just caused to be stealthily murdered—and, with more than Mephistophelic sneerfulness of tone and visage, coldly commending that *comeliness of person* once imputed to *her*, who, in days now past and gone, had given nourishment to his own feeble infancy from that now marble and pulseless bosom;— or when, as he could not help even yet remembering, his ears had drunk in with delight the tender whisperings of maternal affection, or his yet guileless and uncorrupted heart had gladdened in that smile which had now given way to the clayey and expressionless aspect which it is death's alone to impart, ere yet his cold

defacing fingers

On Have swept the lines where beauty lingers,
 That first dark day of *nothingness*,
 The last of danger and distress.

I have spoken of Mr. Holt and Mr. Prentiss as having been *rivals* at the bar of Mississippi, and so, indeed, in a certain sense they were; for they were both eager and ambitious strugglers for professional fame upon the same attractive theatre; they were both surrounded by numerous applauding friends and admirers; comparisons between them were often instituted; and repeatedly did they meet in earnest conflict in the various courts of the state. I am not aware that either of these gentlemen ever displayed feelings of illiberal jealousy towards his accustomed opponent, or was heard to apply to him the language of decrual or disparagement; though there is no reason to believe that they were ever upon terms of personal intimacy. In truth they differed so much from each other in disposition, in habits of life, as well as in political opinions, that it would have been almost impossible that they could have lived together in the same vicinage without being in some degree accessible to occasional feelings of unkindness, or at least of estrangement. The most noted civil case by far in which I ever knew them to be arrayed against each other was that of "Vick and Rappeleye v. The Mayor and

Aldermen of Vicksburg." This case involved a large amount of property, and had awakened much local feeling. In it Mr. Prentiss had a large contingent fee depending, supposed to be as much in value as several hundred thousand dollars, and he was, of course, particularly anxious to succeed. He had never been known to make such elaborate preparation in any case besides. There was much ground for contestation, both as to facts and law, and the interesting question of "*dedication*," as it is called, which has arisen so often in connection with our rising towns and cities within the last half century (the doctrine appertaining to which is perhaps not altogether settled), underwent, on this occasion, a most laborious and searching examination. The copious and learned briefs filed in this case, and which are to be found in the volumes of reports of that period, may be yet read with interest and instruction. It was, indeed, a battle of giants, and its progress was observed with intense interest by many not personally connected with the controversy. Mr. Prentiss and Mr. Holt were, of course, the Achilles and Hector of the scene, though several other attorneys participated to some extent in the struggle in a manner highly creditable to them. Mr. Prentiss was successful before the Supreme Court of Mississippi, but the decision of that tribunal was afterwards reversed in the Supreme Court of the Union, and Mr. Prentiss lost his expected fee. In the condition of his pecuniary affairs at that period, this was, indeed, a severe blow, but he bore up under the disastrous result with manly dignity, and was seldom heard to complain of his ill-fortune. A year or two after, he removed to the city of New Orleans, where he did not long survive. Mr. Holt, about the same time, owing to continued ill-health, withdrew from the regular practice of his profession; travelled much in foreign lands; returned; was called to occupy a respectable official position in Washington City; has been long there since, in the discharge of duties involving serious and delicate responsibilities; has been in the meantime the subject of much commendation and of much dispraise, according to the prejudices and partialities of men of opposing political factions; and still survives in the full possession of his faculties, and in far more robust physical

health than when he first made his appearance in the state of Mississippi, almost forty years ago.

In the year 1830 the state of Mississippi was one of the least populous in the Union, though, as I have said already, there was much wealth there, much intelligence, and much enterprise. The Choctaw and Chickasaw Indians had not yet relinquished their primeval homes and gone to reside beyond the great "Father of Waters." When this grand exodus occurred, a few years later, an almost unprecedented tide of population flowed to Mississippi from other states, and from beyond the ocean; and the most remarkable influx of lawyers also took place, which has been ever known in this country. These came chiefly from Tennessee, Kentucky, Virginia, Georgia, Alabama, Maryland, New York and New Jersey. Many of them were persons of much intelligence and worth, and of no little standing and influence in the states whence they had migrated. Of a number of them I shall have much to say hereafter, both as barristers and as occupants of the bench; and there are likewise a considerable number of those who were residents of the state at a much earlier period, and well-known in connection with the legal profession, whose merits will be hereafter noticed, should these numbers be continued.

I propose to close the present article with some remarks upon one of the new-comers of that period from the state of Kentucky, with whom it was my happiness to enjoy for many years relations of the closest intimacy, and of whom thousands yet surviving cherish the most pleasant and respectful remembrance. I allude to the Hon. Daniel Mayes.

Judge Mayes, if I have not been the recipient of erroneous information concerning this matter, first saw the light in Kentucky. It is certain that he studied his profession in that state and practiced there for many years previous to his coming to the state of Mississippi. He came to his new home in the Southwest with a high reputation for legal learning and ability, and was known by many among us as having officiated most creditably as a law professor at the Transylvania University. Many of those who had sat under his sage minis-

trations at this famous institution, had preceded Judge Mayes in his advent to this inviting theatre, and had been everywhere heard to speak of their revered preceptor in terms of glowing and grateful commendation.

This gentleman, after a calm survey of the field of professional labor upon which he was about to enter, concluded to open an office in the city of Jackson. His merits were not slow in being discovered in this locality, nor did he have to wait long before he became enlisted in many cases of much interest and complexity, in all of which he more than equalled the public expectation. He at once showed himself to have mastered every branch of the law, and to be fitted, in every respect, for the competition in which he was now to engage. As a special pleader, I do not suppose that he had, in the whole state of Mississippi, an equal. He was a smooth and graceful speaker; an adroit and skilful logician; was of most gentle and conciliatory manners, and of a patient and persevering energy which no difficulties could baffle, no embarrassments could perplex, no amount of professional labor could fatigue or discourage. As a forensic speaker he was always calm, strictly methodical in the arrangement of his matter; terse, vigorous, and pointed in his phraseology, and singularly accurate and felicitous in his choice of words. He has the credit of having made one of the most effective speeches of his life in the celebrated Beauchamp case in Kentucky, and this I am myself not at all inclined to doubt; since I have heard from his own lips, that he exerted himself on that occasion far beyond what was customary with him. Judge Mayes was in general cheerful and fond of social intercourse, but suffered from occasional fits of despondency, arising, as he thought, from physical causes, which rendered him at times a little gloomy and morose, and induced him to avoid all company save that of his own quiet and beloved home. In the contests of the forum he was never captious or impolite; never coarsely boisterous; never in the least degree dogmatic or egotistical. He constantly evinced the nicest sense of professional propriety; was never known to be unduly punctilious or exacting, and never took an unseemly personal liberty; but if his own sensibilities

were gratuitously assailed, or he was treated with marked incivility by an adversary, he was far from being slow in the emphatic assertion of his own dignity and in compelling the aggressor to lament his own temerity.

Judge Mayes was assuredly one of the most acceptable and useful forensic allies that could be wished for: he was ready to take upon himself any amount of labor that the exigencies of the case in which he chanced to be employed might seem to demand; was perfectly frank in the disclosure of such views as he had adopted, *in advance of the expected argument*, and in all causes seriously involving life, reputation or fortune, his active and suggestive mind was ever on the alert, in the devising of new expedients for the furtherance of his client's interests, in finding out new avenues of escape from unfavorable presumptions of any kind, in casting new difficulties in the way of opposing counsel, or in the framing of subtle and ingenious interpretations of some disputed fact, or of some ambiguous provision of law applicable to the case under investigation.

I am here to invite attention to several interesting criminal trials in which I recollect this remarkable personage to have taken part, and in which his skill and ability were brought forth in a particularly striking manner.

A man of very humble social standing by the name of Dunn, and who resided in the southern portion of the county in which Judge Mayes himself lived, stood charged with the murder of a female, under most peculiar circumstances. The accused individual had previously sustained an irreproachable character for industry, sobriety and amiableness of temper. He had never been known to wrangle with his neighbors, was just and upright in all his dealings, was kind and exemplary in domestic life, and was not known to have an enemy in the world. He lived in a neat and comfortable cottage, on a much-travelled road, and occasionally entertained persons who chanced to call upon him for such accommodations as his humble mansion could supply. A female stopped at his gate one day, of genteel appearance, having two children in her arms—and asked for admission, which was of course not refused her, as she

stated that her husband would join her in a day or two, he having gone upon a short journey. The children were twins, and were, at the time, apparently only about a month or two old. The woman was herself quite good looking, but was almost a giantess in dimensions. Several months rolled away, and no husband yet made his appearance. Dunn and his wife were in quite an embarrassing predicament. They did not wish to turn the woman out of doors, but she had as yet paid them not a cent for her board, and they were too poor to allow her to remain with them without some prospect of remuneration. Mrs. Dunn, who appeared to be an amiable person, and in very delicate health, concluded that she would name the matter to her mysterious boarder, and, if she found that she could pay nothing for the entertainment she was receiving, to request of her, civilly, to leave her house. This she did accordingly, when the female in question flew into a violent rage, and used the most insulting language, rushed out of doors, and, seizing a large wooden trough which she found lying in the yard, came back to the house with it, and holding it aloft in both her hands, was in the very act of striking Mrs. Dunn with it, when Mr. Dunn himself (having been drawn from the shop, where he was working, by the loud and angry words which had been uttered), struck the assailing party with the butt-end of a whip which he chanced to hold in his hands at the time, and felled her to the earth; *where she immediately died!* A *post mortem* examination was immediately had, from which it appeared that the head of this unfortunate female had received some injury in the region of the temple, but that the skull had not been at all fractured. The surgeon conducting the examination declared that the death had been caused by the sudden bursting of an artery; but whether this bursting of the artery had been the effect of a sudden rushing of blood to the head produced by a violent fit of anger, or had been either wholly or in part the result of the blow which had been struck, he was not prepared to say. The neighbors who gathered to the spot where this fearful disaster had occurred, found Dunn and his wife in tears and in an agony of grief; the dead body of the unfortunate woman

lying upon the ground where she had fallen, and her twin children clinging to her bosom to obtain the nourishment which they had been accustomed to receive therefrom. A more piteous spectacle than this was hardly to be imagined. Dunn set off immediately for the city of Jackson in order to obtain professional advice as to the course which it would be best for him to pursue under these alarming circumstances. Here he was counselled to surrender himself at once to the civil authorities, which he did, and gave bail for his appearance at the circuit court of the county, which was in a few days to be held.

When the day of trial came on, Judge Mayes and the counsel associated with him in defence of Dunn, came to the conclusion that he could not possibly escape conviction for murder, unless his daughter, a little girl about ten years old, who had witnessed the scene just detailed, could be used as a witness in his behalf. She had seen and heard all that had taken place, and, being of far more than ordinary intelligence, might be able to give such an explanation of facts as would save her father's life. Judge Mayes, with that astuteness which was one of his most striking characteristics, advised that the case should be continued until the next term of the court, and that, meanwhile, the little girl should be sent to a good school, and taught especially the *responsibility* attached to the oath which she was expected to take. This course was accordingly pursued. When at last the trial came on, and the little girl was produced in court, the wisdom of the course which had been pursued became most manifest; for, not only did our young *novitiate* stand nobly all the tests of her competency to which the representative of the state subjected her, but she gave such a sensible and lucid statement of all the particulars of this sad occurrence as almost entirely to justify her father in what he had done, in order to save his wife from the serious bodily injury with which she was obviously menaced.

The speech made by Judge Mayes in defence of Dunn was extolled by all who heard it as a marvellous combination of ingenious and forcible argument, winning and pathetic elo-

quence, and lucid exposition of the law. Dunn was convicted of *manslaughter*, and, after a short confinement, was released from prison and restored to the society of his family; but this unfortunate affair clouded the remainder of his life with sorrow, and he was never seen, as I learn, again to enjoy that serenity and cheerfulness for which he had been once remarkable.

A case of at least equal interest and of much greater difficulty was not long after tried in the county of Rankin, whither it had been removed by change of venue, in the management of which Judge Mayes prominently participated, and in which he gained much additional reputation. At a time of severe pecuniary pressure, a Mr. Pigg, having become surety for a neighbor, was sued and a judgment obtained against him in the Circuit Court of the United States, for more than the value of all the property he owned in the world. He had a large and helpless family, chiefly composed of a wife and some half-dozen small children. His own health was not good; he had, in fact, suffered much from a serious contusion of his skull, received in one of the famed battles fought in the winter of 1815, in defence of the city of New Orleans. He was a very industrious, hard-working man, and was a most devoted husband and father. He had, latterly, taken to drink, and when at all under the influence of alcoholic stimulus, was very irritable, and not a little pugnacious. His character in other respects was unexceptionable. A deputy federal marshal had recently visited his house, and levied an execution on all he possessed, which he was informed would, in a few days, be sold. The wretched man was in a state of despair. He had some angry words with the deputy marshal, and he vowed to him that he would never submit to have his family turned out to starve. The marshal, in turn, used some insulting and acrimonious words which rankled in the sensibilities of Pigg after the termination of their interview. On the day fixed for the sale of Pigg's goods, an announcement was made to him that the marshal was at the door. Pigg, in a condition of mind easier to be imagined than described, seized his gun, rushed to the door, and fired upon

the officer whom he found standing there, and killed him. So soon as this fatal act had occurred, it was ascertained that the person who had been shot was not the officer with whom he had previously quarrelled, but another individual altogether, who had been sent in his place, and who had been up to that time, wholly unknown to Pigg. When this mistake of persons was made known to the unhappy man, he burst into tears, and could scarcely be prevented from taking his own life.

This was the precise character of the case in which Judge Mayes was now called upon to exert his high powers in order to save a fellow-being from an ignominious death upon the scaffold, and an innocent and interesting family from penury and degradation. He came to the conclusion, after consulting with associate counsel, that it would be possible to defend Pigg successfully upon the ground that when he committed the act of killing, he was not in a state of *sanity*, but *non compos mentis*. I do not suppose that more extraordinary pains were ever taken than were now put in use in order to make out, if possible, this difficult species of defence. Judge Mayes argued the case, when the day of trial came, at much length, with infinite earnestness, and with more even than his wonted address and plausibility. To the jury, which was one of uncommon intelligence, he explained in the most lucid manner the complex organization of the human brain, and the various causes by which it was subject to be injuriously affected. He drew illustrations from Locke, from Spurzheim, from Comb and other writers of profundity. He read copious extracts from the standard works on medical jurisprudence, and applied them all most felicitously to the case under trial. He quoted a paragraph or two from Erskine's celebrated speech in defence of Hadfield. He urged most warmly and earnestly that the defence of *insanity* had been fully made out. He then took a view of the defendant's previous good character; enlarged upon his many good qualities, his kindness of heart, his valorous and patriotic conduct in defending his country against a foreign invading army; insisting that the grievous responsibilities which he was now called upon to meet were

the result of injuries received in that country's service ; and wound up with a pathetic and soul-moving appeal to the jury in behalf of his unhappy family, several of whom he pointed out as then in court awaiting the result of the trial. The defendant was not convicted of murder ; but the jury, under such instructions as they received from the court, could not avoid finding him guilty of manslaughter.

Here I will for the present cease to occupy the attention of the readers of the SOUTHERN LAW REVIEW. Should this attempt to amuse them be at all successful, it is not improbable they may hear from me again ; meanwhile, I may say to them, one and all, in relation to these hasty and somewhat *experimental* lucubrations, in the language of modern poesy :

“ If in your memories dwell
A thought which once was mine, if on ye swell
A single recollection, not in vain
I've worn my sandal shoon, and scallop-shell ;
Farewell ! with *me* alone may rest the pain,
If such there were—with you the *moral* of my strain.”

CHAPTER III.

General Remarks upon the Legal Profession.—Extraordinary Influx of Lawyers into Mississippi about Forty Years Ago.—Recompense of Attorneys.—Views of Quintilian on this Subject.—William L. Sharkey.—His Powers as an Advocate.—His Conservatism of Temper and Character.—His Lamentable Decease.

Having heretofore made mention of that remarkable migration to the state of Mississippi of barristers from other states of the Union—a little anterior to the close of the fourth decade of the present century—and having also stated as one of the causes of this memorable aggregation of professional ability, the anterior purchase by the general government of that wide domain held by the Choctaw and Chickasaw tribes of Indians, it may not be amiss here to bring to view an additional cause of the flocking to this fertile and attractive region of such a prodigious number of attorneys in quest of fame and fortune, both of which, they had reason to hope, might be here acquired more easily than elsewhere.

When the stern and inflexible virtue of a sagacious and enlightened chief magistrate, the leading measures of whose eventful administration will long continue to attract the thoughtful and scrutinizing attention of his countrymen, interposed, by the heroic exercise of the veto power, an insuperable obstacle to the re-charter of the famous Bank of the United States, the noxious influence of which upon the politics and morals of an enterprising commercial people had begun to be painfully realized, the state banks existing at this period having been made the depositories of the money of the Federal government, were, in this new capacity, counselled in a manner which could not but prove effectual, to emit, as soon as possible, adequate amounts of their own paper circulation, to supply that deficiency in the accustomed medium of exchange expected to be realized, and save the country from the deleterious effects of an over-sudden *contraction* which might otherwise result from the rapid withdrawal of the issues of that huge institution which had so long dominated over all the concerns of trade and business. The vast amounts

of state bank circulation which soon inundated the land, imparted such a stimulus to moneyed enterprises of every description, and awakened such an extravagant spirit of speculation everywhere, and especially in the new cotton states of the southwest, that some check to this rapidly growing evil was deemed expedient, and the celebrated *Treasury Circular* made its appearance, which quickly brought on such monetary re-action, as to spread almost universal bankruptcy throughout a region where the hopes of countless wealth, beyond all that is told even in tales of romance, had become, by the action of the causes specified, almost universally diffused. Such a scene of distress, devastation and confusion as was now unfolded, no language could adequately portray. Universal loss of confidence ensued. The deposit banks were swept out of existence as by a whirlwind. All the state banks had been imitating their example in deluging the land with irredeemable paper, and had to share their fate. The commission merchants of New Orleans were compelled, in great numbers, to close their business houses, and call in the vast sums which they had been liberally supplying to their customers in the cotton-planting region, and upon which they had been realizing large commissions. The wholesale mercantile houses of the North and East, and who had sold enormous amounts of goods on credit to almost all who chose to apply for them, naturally enough participated in the general moneyed panic, and vehemently demanded of their numerous local customers the immediate payment of what was due them. This could, in general, only be effected by the general transfer of claims against those who had been dealing with them in a manner so extravagant as almost to indicate a supposition on their part that the day of payment would never come. The courts began to be filled with suits of almost every description. Rumors soon went abroad that lawyers in Mississippi were far too few in number to cope with the litigation in progress, and that many of them were rapidly accumulating over-grown fortunes. The effect of such intelligence as this was almost electrical; it was really almost like the letting loose of an avalanche from some lofty Alpine

height. Attorneys came in great numbers almost by every stage-coach which came into the state, and by every steamer which descended the Mississippi river. Many came only with an intention of sojourning in the land of promise for a short period, leaving their families behind them, whilst others came to take up a permanent residence. Many of these new comers were men of learning and worth, and deserved all the success which they afterwards achieved. If there were a few others of a different description, the fact is not at all to be wondered at. That, in such a state of things as has been described, too much avidity for the accumulation of wealth should have, to some extent, made itself apparent even among the members of the legal profession in Mississippi; that sometimes fees were demanded to an amount a good deal beyond the services actually rendered; and that there were instances of gross oppression in the collection of money by execution, should, perhaps, occasion no great surprise. That attorneys chiefly representing non-resident clients should have occasionally shown but little commiseration for debtors wholly unknown to them personally, was, perhaps, to have been expected; and that here and there large and valuable estates should be exposed to sale, under sheriff's or marshal's execution, *for gold and silver*, when these commodities were almost impossible to be obtained in the community, are melancholy facts belonging to the history of the past, which should, perhaps, be more grieved over than harshly condemned. It must be confessed, though, that occasionally a certain class of cold-blooded collecting attorneys were known to put in exercise all the harsher expedients known to the law in cases where a little more humanity and moderation towards the unfortunate defendants, whom circumstances had thrown into their power, would have comported better with the dignity of the legal profession, and have been equally advantageous to those in whose service they were enlisted. I shall not enlarge upon this prolific theme; though many scenes of pecuniary suffering at this distressful period, arising to some extent, from the causes just specified, are still held by me in painful and humiliating remembrance. I may be pardoned, though, for here

adding that attorneys who chance to be almost absolute strangers in the community where they are employed to enforce the collection of claims held by non-resident creditors, may, in general, be expected to display somewhat more of vigilance and activity, than the same lawyers would evince if seeking to secure the payment of debts owing by persons long known to them by multiplied acts of civility and kindness. Certain it is, either for the reasons suggested, or for some others not easy to be discovered, the greater part of the business of *collection* fell into the hands of attorneys who had not been long resident in the distressed and bankrupt community in whose midst they now had duties imposed upon them from which, with their attendant profits, I have before now known lawyers of a certain generous strain, and more desirous of securing forensic fame than of filling their pockets with money, instinctively to recoil.

In bringing these preliminary remarks to a close, the grave and interesting question seems naturally to suggest itself: Whether, upon the whole, it might not be better for society, were the existence of no class of persons tolerated, the members of which should be recognized as entitled by law to claim pecuniary recompense for services, the rendition of which, in some instances, would seem to array them in opposition to the sound administration of justice and law, and therefore against the best and highest interests of the community itself. There is certainly something very noble in the utterance of truth, and in the exercise of honesty without any expectation of requital, save the approval of conscience and the applause of the virtuous members of society. If it be one's duty to speak the truth always, it may be plausibly argued that it can never be creditable to assert falsehood. If perfect fairness and sincerity are required by every sound system of morals, it may be rather difficult to show under what circumstances it can be justifiable, for the gratification of mere mercenary motives, to act in conscious disregard of them both. To deprive the widow of her mite, and the orphan of his inheritance, because one is paid for these feats, it might puzzle either an Aristotle or a Plato to vindicate. To

labor for the acquittal of some notorious violator of that law, upon the firm and steady maintenance of which the peace and well-being of the community depend, seems, in a certain subtle point of view, to liken itself very closely to the becoming accessory to crime after it shall have been committed. To minds given to super-sublimated reflection, the idea might occur that at the dread moment when we shall stand before the great Searcher of Hearts, it might turn out to be an insufficient apology, when charged with upholding the guilty of this world, or cruelly harrassing the virtuous or unfortunate, that the culprit was one of an honorable and learned fraternity to whom these things had been regarded as allowable. Without going more deeply into these matters at present, I shall venture to say that, could it be satisfactorily demonstrated that all the offices now expected to be discharged by attorneys, were at all likely to be skilfully and beneficially attended to by some other body of functionaries from whom all prospect of pecuniary recompense should be withheld, it is quite probable that but little diversity of opinion upon this long-disputed topic would be anywhere apparent; and it, perhaps, may be safely admitted that the very highest evidence of advanced social culture and refinement which any civilized people could possibly supply, would be the present or future realization of that far-famed theory of gratuitous forensic exertion, boastfully asserted to have had existence in the purer days of the Roman republic, when (as is reported to us) the venerable sages of the law, the Catos, the Scævolas and the rest, daily came from their unostentatious residences and made their appearance in the Forum, as a token that they stood ready to bestow jurisprudential advice, *free of charge*, to such of their fellow citizens as chose to apply to them for aid. Whether this Christian world of ours is ever to know a time when lawyers shall become regardless of fees, and advocates be found willing to undertake the prosecution of the guilty or the defence of the innocent, merely for "the luxury of doing good," is a question which must be left to future generations to decide. But I trust that there are some even of the legal fraternity among ourselves who will agree with me in approv-

ing what an illustrious Roman advocate, (Quintilian) has said in his immortal work on rhetoric. His language is as follows :

“ Whether an orator ought always to plead gratuitously, is a question which admits of discussion, and which it would be mere inconsiderateness to decide at once, and without reflection ; for who is ignorant that it is by far the more honorable, and more worthy of the liberal acts and of the feelings which we expect to find in an orator, not to *set a price* on his efforts and thus lower the estimation of so great a blessing as eloquence, as many things seem worthless in the eyes of the world for no other reason than *that they may be purchased*. This, as the saying is, is clear enough even to the blind ; nor will any pleader who has but a competency for himself (and a little will suffice for a competency) *make a gain of his art* without incurring a charge of meanness. But if his circumstances demand something more for his necessary requirements than he actually possesses, he may, according to the opinions of all wise men, allow a recompense to be made him ; since contributions were even raised for the support of Socrates ; and Zeno, Cleanthes, and Chrysippus took fees from their scholars. Nor do I see any more honorable way of gaining a support than by the practice of a noble profession, and by receiving a remuneration from those whom we have served, and who, if they made no return would be unworthy of defence. Such a return, indeed, is not only just, but necessary, as the very labor and time devoted to other people’s business precludes all possibility of making profit by any other means. But in this respect, also, *moderation* is to be observed ; and it makes a great difference from whom an orator receives fees, and how many, and for how long a time. The rapacious practice of *making bargains*, and the detestable traffic of those who ask a *price proportionate to the risk* of their clients, will never be adopted even by such as are but moderately honest, especially when he who defends good men and good causes has no reason to fear that any one he defends will be ungrateful ; or, if such should be the case, I had rather that the client should be in fault than the pleader.

The orator, therefore, will entertain no desire of gaining more than shall be just sufficient, and, even if he be poor, he will not receive anything *as pay*, but will consider it only as an acknowledgment of service, being conscious that he has conferred much more than he receives. Benefits of such a nature, because they are not to be sold, are not to be thrown away; and it belongs to the obliged party to show gratitude."

One can scarcely avoid feeling some surprise that views so pure and exalted should have found utterance in hearing of the Roman youth during the reign of the infamous Domitian—at a period when the depravation of morals was so deep-seated and incurable—and when swarms of unprincipled informers had rendered life an almost intolerable burden, and freedom of speech an experiment almost the precursor of death. But even at that moment Tacitus and the younger Pliny were daily enunciating speeches to which Cicero or the elder Cato would have been delighted to listen, and the ethical teachings of Seneca were read and admired in all the fashionable resorts of relaxation and luxury. The principles of a high-toned and expansive system of equity were even then expounded, both in courts of judicature and in the public schools of that period, by able and eloquent advocates and professed lecturers, who aspired to maintain in unsullied purity the dignity of that forum where Crassus and Antonius, Cicero and Brutus had been once the most distinguished ornaments.

It would be but doing simple justice to the bench and bar of Mississippi, during the period which elapsed from 1830 to 1860, to assert that no state of the Union could then boast of an abler and more incorruptible judiciary, or a greater number of lawyers and advocates of deep legal learning, of brilliant and effective eloquence and of pure and unimpeachable morals. The election of judicial officers of every grade by the people, was productive of no such deleterious effects as many had predicted. Neither party influence nor mercenary considerations of any kind were known, in any very marked instance, to cause the popular vote to be concentrated upon an ignorant and corrupt aspirant over an opponent of superior probity and learning.

The ordinary devices of political electioneering were seldom resorted to, and never to the advantage of him who thus dishonored his own character. In the exercise of their noble calling, the members of the bar were almost uniformly upright, frank, and manly; vigilant and energetic, but courteous and accommodating; disdaining to succeed in any case by mere trick or chicane; and sacredly observant of all the engagements they assumed, or agreements into which they entered with opposing attorneys, whether these were oral or reduced to writing.

The shortness of the terms of judicial service provided by the constitution of the state was supposed to be attended with more or less disadvantage. The judicial incumbents of any given period having no satisfactory assurance of being re-elected when their respective periods of official service should expire, and this being necessarily dependent, to some extent, upon contingencies impossible to be anticipated, were naturally inclined to regard themselves more as members of that forensic brotherhood, from the bosom of which they had so recently emerged, and to which, in all probability, they would soon return, than as constituting a class of functionaries whose business it would be, so long as they might hold connection with the scenes of public life, to fit themselves more and more thoroughly for the high task of ascertaining the true state of the law, and of enunciating it in all its fullness and purity when thus ascertained—cultivating with ever-increasing assiduity a passionless *impartiality*—and steadily upholding principle in disregard of all the demands of personal, political, or local expediency. It has always seemed to me that the judges, in every country desirous of having an enlightened and reliable judiciary, should be allowed to hold their offices during good behavior, be liberally paid for their official services, and prohibited, after being once seated on the bench, from ever again enlisting in the practice of the law. Unless some such arrangement as this shall be adopted, it is plain that many inconveniences may result, some of which experience in several of our states has already brought quite conspicuously to view. Fortunately for the state of Missis-

issippi, no instance ever arose, during the space of time to which these observations are intended to apply, in which an individual occupying at the moment a place upon the bench, ever took upon himself the character of an advocate, or called upon some other attorney to preside in his place, whilst he should address him from the bar in favor of the interests of some cherished client, a decision in favor of whom he was solicitous of securing by the exercise of his own powers of forensic persuasion. I hold it to be absolutely certain that no judicial officer can often set this unfortunate example without losing more or less of his dignity as a selected expositor of the law. It is impossible that he can play Mansfield or Erskine, as his occasions may require. To be thoroughly confided in and venerated as a judge, he must altogether avoid the excited contests of the forum. It is much to be feared that a judge acting this part—if, under such trying circumstances, he is able to preserve unimpaired the true *judicial temper*—will not be so fortunate as to escape misconstruction as to his motives and character, which can not but be seriously prejudicial to his official usefulness.

I well remember that a little more than thirty years ago a highly respectable member of the General Court of Virginia, chancing to be on a visit to the state of Mississippi, took part in the trial of a cause of great interest in which an early and respected female friend was a party. He made an admirable argument for his client, and was much praised by all who listened to his speech in her behalf, for his eloquence and learning; but the fame of this exploit reached the heart of the ancient dominion, and produced the most vehement complaints of conduct deemed so un-judge-like, and the personage in question very narrowly escaped the experience of an *impeachment*.

But let us return to our immediate theme. It has now been a little more than two years since, just as I was departing upon a journey to the Pacific coast, I beheld upon the bed of disease the prostrate form of one of the most remarkable and interesting men I have ever known. I allude to the Hon. William L. Sharkey; who, for so long a period of years, had

been the acknowledged head of the bar of Mississippi, and who had presided as chief justice of her High Court of Errors and Appeals longer than any other individual has ever been known to do. I took an affectionate leave of my dying and honored friend, with no hope at all of ever beholding him again in this life. He died a few days after, profoundly regretted by all who have known him sufficiently to be able to appreciate his merits, and, as I confidently believe, without leaving a single enemy behind him. Judge Sharkey was a man of many shining and impressive traits of character. I held cordial and intimate intercourse with him for more than forty years, and have repeatedly seen him under circumstances well calculated to test the strength of his understanding, and of his exalted sense of self-respect. I never knew a person of more integrity and honor; nor one whose general course of life was more blameless and worthy of commendation. His mind was one of singular elasticity and vigor, and he had all its powers completely under his control. He was profoundly acquainted with law as a science, and exceedingly delighted in the examination of legal questions of particular importance and difficulty. He was a ready, ingenious, and impressive speaker; possessed of a majestic and commanding person; a clear, pleasant, and sonorous voice; graceful and appropriate gesticulation; and his countenance was ever lit up and made resplendent with the mingled rays of reason and sentiment. He was never affected, churlish, ostentatious or pedantic; always expressed himself in language simple, natural and idiomatic; was never unduly prolix in discussion, nor ever coarsely boisterous or dogmatical. His manner in speaking was in general marked with solemnity and earnestness, but he occasionally indulged in a humorous allusion, or in the relation of some pleasant and characteristic anecdote; but no man was ever less inclined than he was to be disrespectfully sneerful or unamiably sarcastic. He was indebted to a respectable institution in the state of Tennessee for whatever of education he had the good fortune to receive in youth and opening manhood; but he is understood never to have become familiar with the ancient classic languages, or to

have given more than ordinary attention to the more recondite departments of science. His stock of general reading was considerable; he was well versed in both ancient and modern history, and was one of the best informed politicians with whom I was ever acquainted. He had mingled freely in society, and possessed a knowledge of human nature seldom surpassed. In social intercourse he was easy and familiar; not in the least degree either assuming or austere, and ever carefully withheld himself from coarse and disreputable companionship. He was the acknowledged head of the Vicksburg bar so long as he continued in the practice of his profession, and enjoyed a lucrative practice up to the period of his advancement to the bench. Judge Sharkey held the office of Chief Justice of the High Court of Errors and Appeals in Mississippi far longer than any other person has been known to do, and during his period of judicial service delivered a series of opinions upon questions of commercial, criminal, and constitutional law, which have been for many years of great authority in every state of the Union. In the preparation of his opinions he employed much care, and when he enunciated them from the bench in his own animated and emphatic manner, no one was in hearing of his voice who was not interested and edified. The understanding and temper of this admirable man were both of an eminently conservative cast; he was much given to the reading of the scriptures and to the study of ethical works of a cheerful and inspiring character; was singularly patient and forbearing even towards those who had intentionally wronged him, and ever made a liberal allowance for the infirmities inseparable from human nature. He was averse to all sudden and extreme changes in the constitution and laws; had an almost morbid dread of popular outbreaks and excesses; and strongly disapproved of all movements, with whomsoever originating, and by whomsoever conducted, which looked ever so remotely to the dissolution of the Federal Union. The character of Washington he held in special veneration, and the counsels of his celebrated Farewell Address he recognized as constituting the true palladium of our national safety and felicity. In the

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year 1850, as president of the celebrated Nashville convention, he evinced a mingled courage and wisdom which tended much to calm the excitement of that body, and commanded the respect of all true lovers of their country. A short time subsequent to the adjournment of this convention, Judge Sharkey paid a visit to Washington City, where he found Congress in session, and had an opportunity of making valuable suggestions which had no little effect at the time in suppressing sectional excitement and in allaying rising discontents. Whilst in Washington, President Fillmore, through Mr. Webster, in a singularly complimentary manner, tendered him the position of secretary of war; but he declined the proffered honor promptly and respectfully; alleging, with characteristic modesty, his own want of qualification for this high place, by reason of his not having before had that kind of experience which he deemed requisite to the successful administration of this important office. The fact is known to me personally that he even left Washington City somewhat precipitately, in order to avoid further solicitation on this subject. His known devotion to the Union and aversion to uncalled-for civil strife exposed him to no little discomfort and harassment during the late most deplorable sectional conflict; but those lofty attributes of character which all knew him to possess, and his patient and dignified conduct throughout that trying period, caused him to be loved and respected by all virtuous and well-intending citizens far more than he had ever been before; and when the clash of arms at last ceased to be heard in the land, and the people of Mississippi were seeking to be reconciled to the government against which they had been arrayed, and to be re-admitted into that sisterhood of states from which they had for a time severed their connection, it was under the counsel and leadership of this venerable and trusted personage that these desirable objects were ultimately attained. As provisional governor of Mississippi and as a senator-elect to Congress, Judge Sharkey attracted in a particular manner the general attention of his countrymen, and could his voice have been then heard in that "more than Amphyctionic council" of sovereign states,

and his sage counsels been listened to, the sublime work of national pacification, since so happily realized, would, in all probability have been much earlier effected.

Whilst Judge Sharkey was yet at the bar, I had once or twice the honor of being associated with him in the trial of capital cases of no little importance, on which occasions, as senior counsel, he manifested, in a manner which I can never forget, all that tact and discriminating judgment which distinguished him, and in discussion evinced powers of which no advocate that I have known need have been ashamed.

Many persons yet surviving in Mississippi remember Judge Sharkey's earnest and energetic opposition to the election of judges by popular suffrage, when it was first proposed to incorporate a provision for this purpose in the new constitution of the state, then about being adopted; yet it is a circumstance worthy of note, and one demonstrating conclusively his standing and popularity at that time, that he afterwards became the first Chief Justice of the state under the new system of judicial election. In subsequent years several grave constitutional questions arose for the decision of that tribunal in which he was then presiding. On one of these occasions the alleged invalidity of what were known as the Union Bank bonds was expected to come up for consideration; and, though it was well known everywhere that he regarded these bonds as obligatory upon the state, and though a majority of the voters in his judicial district were undeniably opposed to being taxed for the payment of the same, yet was he triumphantly re-elected over the opposing candidate, though the latter was a jurist of undoubted learning and ability, and had formally pledged himself, if elected, to decide the bonds to be invalid. In this contest Judge Sharkey delivered a number of popular addresses in which he boldly defended his own views upon this subject, and remonstrated with his fellow citizens in the most eloquent and convincing manner against the repudiation of the pledged faith of the state at that time proposed. The result of the contest was alike creditable to those by whom Judge Sharkey was re-elected and to himself.

Judge Sharkey had been occupying a place upon the bench

some three or four years, when he was fated to pass through one of the severest ordeals which any public man has had to encounter. The celebrated book of Stewart, in, which Murrell and his associates were charged with having set on foot a scheme of negro insurrection, which it was asserted looked to the general destruction of the white population of the South, had reached the state of Mississippi and had awakened the most wide-spread excitement and alarm. The more densely settled counties of middle Mississippi, it was apprehended, would be soon laid waste and ruined. The people were apprehending that all the unnamable horrors of servile revolt would soon blaze forth among them in the most aggravated form. Stewart himself had been received at the capital of the state and elsewhere in the most enthusiastic manner, and public honors had been accorded him such as the most illustrious benefactors of the human race have seldom enjoyed. A fine horse was purchased and presented to him, and he became the recipient of many costly presents besides. In a short time the whole country became thoroughly convulsed. Large public meetings occurred, and the most elaborate preparations were made to meet the multitudinous foe. In a number of counties, vigilance committees, or committees of safety (as they were sometimes called) were organized, and efficient instrumentalities of every kind provided, by means of which suspected persons were to be apprehended and brought to trial. Such a trial was quite sure to result in speedy conviction and execution, without the benefit of jury trial, or the privilege of habeas corpus. The popular mind was in such a diseased and phrenzied condition that nothing was wanting but the kindly offices of the *guillotine*, to usher in all the imagined glories of Jacobinical violence, such as stand imperishably connected with the names of Danton, Robespierre and Marat. Just at the moment when the public furor was at its acme, and when instances were occurring of the owners of large numbers of slaves being arraigned before these lawless and self-constituted tribunals; persons who, though themselves wholly untinctured with the abolition *virus*, but who, having thus far been able so far to preserve their mental equipoise as

to disapprove most strongly the confused and bloody proceedings then in progress, were on that account suspected of complicity in the dark scheme of criminality which was supposed to have been concerted. By a singular coincidence, the celebrated hanging scene occurred at Vicksburg, whilst the whole interior country was in the condition just described, intelligence of which event was brought to the city of Jackson on the very day that Judge Sharkey called at my room in one of the hotels of that city and asked an interview with me, laying before me a letter which he had just received from a valued relative of his, Mr. Patrick H. Sharkey, which he asked me to read. The letter informed the judge that the writer thereof was then in the neighboring town of Clinton, was about to undergo trial before the safety committee there in session, and besought him to come as soon as possible to intercede for his life. Patrick H. Sharkey was one of the wealthiest planters in the county of Hinds, and a justice of the peace. A body of men from the adjoining county of Madison, having arrested one of his most respected neighbors a day or two previous, with the intention of carrying him to the town of Livingston for trial, where men were then being summarily hanged almost daily, Sharkey had ventured to protest against their action, and, claiming jurisdiction of the case, had turned the alleged culprit loose. This conduct had brought down upon him the vengeance of the *Regulating Band*, by whom his house was attacked in the night-time, and in defence of which he had slain one of the trespassers, and been severely wounded himself; but escaping in the dark, he had voluntarily appealed to the committee of Hinds county for a full investigation of the affair, being quite willing to be tried by citizens of his own county, but wholly averse to being dragged to Livingston, where, he felt assured, his life would not be for a moment safe. After I had read the letter referred to, Judge Sharkey proposed to me to go with him to Clinton, which being the place of my own residence at the time, he thought I might be able to exercise some influence in favor of his imperiled kinsman. We proceeded to Clinton accordingly; where we found the examination about com-

mencing. The unhappy man at whose summons the judge had come to the place of trial, was suffering greatly from the wounds he had received, and was scarcely able to sit erect whilst his conduct was undergoing scrutiny. The proceedings of the committee being ordinarily conducted with closed doors, Judge Sharkey, without asking the privilege of being present whilst the trial was going on, contented himself with addressing the committee a few words before the adduction of testimony should occur, which were listened to with the most profound attention and respect. This short and touching address to the committee was truly a master-piece of its kind. Neither Erskine nor Curran could have met the dangers of the moment with a greater display of discretion, of *tact*, and of soft, insinuating persuasiveness, than Judge Sharkey on this occasion put in exercise. He knew too well the disturbed condition of the country to call in question the authority of the committee. He did not even allude to his own power to grant a habeas corpus for the relief of the accused. He frankly confessed the utter powerlessness of the courts in such an exigency as had then arisen. He appealed directly to the self-respect and known intelligence of the committee, at whose hands he could not doubt that justice would be rendered in the case. He showed the gross absurdity of the charge of *complicity* which had been preferred; and concluded by urging with great solemnity and impressiveness the duty of the committee to protect the citizens of their own county from trial beyond its confines, and by persons already too much prejudiced against the individual then in custody to give him a fair and dispassionate hearing.

I need hardly say that the committee were not long in determining this interesting case in favor of the accused. That their action was wise and equitable, may be inferred from the fact that Patrick H. Sharkey afterwards brought an action of damages against those who had so ruthlessly invaded his home, and recovered damages from them to the amount of \$10,000, not a farthing of which found its way into his own pocket, but was generously distributed in charity.

There is another instance in Judge Sharkey's history as a

public man which I feel inclined to mention, as illustrative of the principles which uniformly guided his career as a sound and conservative statesman. In the year 1858 a commercial convention was held in the city of Vicksburg. I had the honor of being a member of this body as a delegate from the state of Tennessee. Much to the surprise of many who attended on this occasion, a proposition was introduced by a delegate from the state of South Carolina for the re-opening of the African slave trade. The question had been discussed a few months before, in the legislature of South Carolina, and had there failed of being adopted by reason of the wise and manly opposition of General Wade Hampton, whose forcible and eloquent speech on the subject I read at the time with the highest gratification. It was argued by the supporters of this policy that there was nothing in the Constitution of the United States which, properly considered, was positively prohibitory of this infernal traffic, and that the revival of it would be productive of great advantage to the Southern states in general, and tend to build up the city of Charleston as a great commercial emporium. A more ingenious and powerful speech than that delivered in support of the measure proposed, by its chief champion, I have rarely heard. It was listened to with breathless attention and applauded vociferously. Those of us who rose in opposition were looked upon by the excited assemblage present as *traitors* to the best interests of the South, and only worthy of expulsion from the body. The excitement at last grew so high that personal violence was menaced, and some dozen of the more conservative members of the convention withdrew from the hall in which it was holding its sittings. Judge Sharkey hearing of this tumultuous scene, came at once from his own residence in Jackson, to Vicksburg, and did what he could to still the raging tempest. The fact having been ascertained that this movement in behalf of the re-opening of the slave trade was the result of *pre-concert*, and that the agitation which had been initiated was designed to operate upon a State Democratic convention, the session of which was to occur in Jackson in a few days, Judge

Sharkey proposed to me that I should accompany him to several neighboring counties, in advance of the convention, and aid him in putting the people of Mississippi on their guard against the coming danger. This I cheerfully agreed to do; being perfectly satisfied that out of the question which had now been so suddenly sprung upon the South, the utmost mischief might ensue, if no opposition should be reasonably and effectively interposed. Many are yet living who, I am certain, will agree with me that the speeches which Judge Sharkey delivered at this time were among the most felicitous of his life. They unquestionably had much effect in supressing the dangerous agitation which had commenced.

CHAPTER IV.

Judge John I. Guion.—Eugene Magee.—George Coalter.—William S. Bodely.—The Yergers.—Judge William E. Anderson.—Andrew C. Hayes.—Gen. Volney E. Howard.—Anderson Hutchinson.—Gen. Jno. A. Quitman.—William A. Lake.—Patrick H. Tompkins.—Col. Horace H. Miller.

Whilst Judge Sharkey continued in practice as attorney, he was associated in business with a gentleman whose memory will always be dear to the people of the state of Mississippi. I allude to the Hon. John I. Guion. Judge Guion was also educated in the state of Tennessee, and the friendship and intimacy which so long subsisted between Judge Sharkey and himself, began at school. He was decidedly a man of ability, and possessed many endearing traits of character. Nature had lavished upon him some of her choicest gifts. He possessed a most symmetrical person, a face of much regularity and beauty, and a genial expression of countenance which predisposed those who met him to yield to him their confidence and sympathy. He was a sprightly and vigorous speaker; discussed both facts and legal principles with much adroitness and plausibility; and, had he been a man of studious habits—as, unfortunately, he was not—he would indubitably have attained a very high rank in the profession. I never heard Judge Guion speak with disreputable feebleness or want of grace, though it could hardly be said that he was on any occasion overwhelmingly eloquent, or that he ever displayed the highest logical powers. In social life he was a great and deserved favorite; his disposition was placid and equable; in converse he was sprightly and engaging; he was at times much inclined to facetiousness; told an anecdote with much good humor, and occasionally indulged successfully in mimetical representations of what he deemed ludicrous in others. After Judge Sharkey had been raised to the bench, Judge Guion invited Mr. Prentiss to join him in the practice. Great as were the abilities of Mr. Prentiss, this second partnership was decidedly detrimental to Judge Guion; for it was observed that, owing to his profound deference for his new

associate, or from some other cause, he rarely afterwards attempted to take the lead in forensic discussion, and was much more solicitous of building up the fame of Mr. Prentiss than of advancing his own.

Judge Guion was always more successful in addressing juries than he was in the argument of mere legal questions. In the defence of criminals he sometimes spoke in a manner calculated to elicit much commendation. The last time that I remember to have heard him in a capital case was in the defence of a man called William A. Hardwicke, who was charged with having committed a most atrocious murder. Hardwicke had in some way managed to enlist the sympathies of Judge Guion very deeply, and in his defence all his powers as an advocate were fully put in requisition. The case was one of the greatest difficulty, and the alleged outrage had called forth much popular indignation. The victim of Hardwicke's ruffianly malevolence was a colored man whom I knew very well, and who was under excellent character. For some unknown reason Hardwicke had conceived for him a strong feeling of hatred, and had, apparently without any reliable evidence of the fact, charged him with having stolen from him some article of personal property of no considerable value. He appears to have gone to his cabin at midnight, dragged him forth from his bed where he was lying by the side of a sick wife—after which, with the aid of several miscreants of his own stamp, he tied him across a barrel, and inflicted upon his bare back more than a thousand stripes. When the poor creature was released he was found to be in a dying condition, and only survived a few seconds. In the intenseness of his agony, he had bitten his tongue in two. An honest and enlightened justice of the peace, sitting as a court of inquiry, had sent Hardwicke to jail; an application for his discharge on bail had been denied; an indictment had been regularly found against him, and after a few month's delay, Hardwicke's trial came on in the Circuit Court of Hinds County, and in the town of Raymond. The offender was prosecuted by a very able district attorney, and with as much of rigor as the law allowed; but when Judge Guion entered upon the

defence of his client, he very soon convinced many of his listeners that in no case should negro evidence be allowed to prevail against a member of the proud Caucasian race; and, as the evidence against the accused was mainly of that character, he insisted that it should be altogether thrown out of the case. After this, when the plausible and captivating advocate suggested the extreme *impolicy*, in the then existing condition of the country, of having a *white man hanged for punishing a negro for theft*, the case was well nigh won. Then came an animated and touching peroration, under which both jury and bystanders were melted to tears, and the *oppressed* and *persecuted* Hardwicke was in a few moments strutting forth from the court-house, and hurrying towards a neighboring tippling-shop, purse in hand, for the purpose of *treating* to liquor all who were willing to drink in honor of his deliverance.

For a year or two previous to Judge Guion's decease, he held a judicial appointment, and presided in a highly satisfactory manner in the several courts of the judicial district in which he had so long resided.

Among the contemporaries of the personages I have just been endeavoring to portray, there were several prominent attorneys to whom I will here cursorily invite the reader's attention.

Eugene Magee was by birth an Irishman. He had been educated with all the care bestowed on favorite pupils at the institutions of the Jesuit order. He is conjectured to have been intended for the priesthood, but, on arriving at maturity, betook himself to the more congenial vocation of the law. He was a most ripe and accurate scholar, and had given much attention to works of general science and literature. In legal learning he was by no means deficient, and much excelled in the drafting of business papers of every description. In the argument of a question of law, and especially of such as arose out of the *pleadings*, he was singularly acute and lucid, and displayed a concise vigor and a winning felicity of expression which made it quite a pleasure to listen to him. At times his sparkling vivacity and caustic humor—which ren-

dered him the terror of slow-minded plodding attorneys, tended much to relieve the dull monotony of ordinary court proceedings. He was quite a favorite in social life, and was the head of a charming family circle. He died very suddenly a few years after my acquaintance with him was formed, of a slow pulmonary malady with which he had been long afflicted.

His associate in practice was Colonel George Coalter, whom I had known for some years previous to his migration to the state of Mississippi. He was born in Virginia, had spent much of his life in Tennessee, and had then practiced in the courts of Alabama for many years, where he is doubtless yet remembered. He was a most pains-taking and laborious office lawyer, and a most persevering student. His mind was exceedingly slow in its movements, and he had not the least relish for intellectual *novelties* of any description. His early education was singularly defective, and his reading had been confined exclusively to law books. He was devoid of all rhetorical grace, and was particularly sluggish and awkward in expression. By dint of extreme industry and attention to business he had acquired a considerable number of *paying* clients; and his quiet and unassuming manners enabled him at last to rise to the bench of the circuit court, where he got along somewhat better than might have been expected; committing, during his few years of judicial rule, no notable blunder, and giving no special offence in any particularly influential quarter, so far, at least, as I have obtained information as to this matter.

Alexander G. McNutt, who became in after life very extensively known as an active and bustling politician, settled in the city of Vicksburg at a very early period—I should say about the year 1820. He attracted no notice as an attorney for some years, and fell into a state of almost absolute destitution, from which he ultimately emerged by the kindness of a Mr. Hough, a merchant retiring from business, who placed in his hands for collection a large number of outstanding claims, by industrious attention to which, with such assiduity and success as strongly recommended him to others of the creditor class, by whose patronage he ultimately grew rich.

He had so little confidence, in the early part of his career, in his own powers as a speaker, that he seldom attempted to argue a case, but generally employed some brother attorney to represent him when a legal argument had to be made. On turning his attention at last to politics, he evinced much capacity, and in a few years managed to become a recognized Democratic leader in the state legislature. He afterwards became governor of the state, and was able to secure a re-election to this position. He was regarded as absolutely invincible, until, becoming a candidate for the United States Senate, he was imprudent enough to attack with the weapons of sarcasm and ridicule so large a number of the influential members of his own party, that he was easily beaten before the legislature for the position which he had sought so ardently, and retired to private life. He is now universally admitted to have been a man of considerable ability, and to have acquired in his latter years such adroitness and skill as a political speaker that few deemed it prudent to encounter him. He died in the year 1848. Mr. McNutt, perhaps, accumulated as much money by the practice of the law as any barrister that Mississippi has known.

A very worthy gentleman who is now a resident of Louisville, in the state of Kentucky, I found engaged in the successful practice of law in Vicksburg in the winter of 1831. I allude to Judge William S. Bodely, who, whilst he remained in Mississippi, deservedly held a high rank among the barristers with whom he was thrown into competition. He had enjoyed many educational advantages in Kentucky before his migration to the South, and his professional training had been thorough. His industry as a lawyer was such as acquired for him very quickly a respectable practice. He spoke well, wrote better, and was exceedingly agreeable in social converse. He was for a short time on the bench, and whilst there demeaned himself so as to give general satisfaction and add not a little to his previous reputation. I was glad to find him six years ago a prosperous lawyer in Louisville, and but little oppressed by the weight of years.

Towards the close of the last century, a very worthy Dutch

family was residing in the town of Lebanon, Tennessee, now so celebrated for its institutions of learning, and especially for its law school. The Yerger mansion is still standing, and in a comfortable state of preservation. In this house were born eight worthy gentlemen, all brothers, and all but one of them practitioners of law. I have only room at this time to notice specially three of them.

The eldest of these brothers, George S. Yerger, was at one time a prominent member of the Nashville bar, and officiated for some years as reporter of the judicial decisions of the Supreme Court of Tennessee—at first alone, and afterwards with a younger brother. Between the years 1838 and 1840, all of the Yerger family whom I have known located in the state of Mississippi. When I first saw George S. Yerger, he was apparently in the prime of healthful and vigorous manhood. His manners were marked with much simplicity and frankness, and he evinced a gentleness and placidity of temper which it was delightful to behold, and which was well calculated to enlist in his behalf the warmest sympathies of those with whom he came in contact. His countenance beamed with benignity, and his voice possessed a sweetness and kindliness of tone such as is seldom found in the possession of the rougher sex, and is of almost irresistible potency in social intercourse. He brought with him to his new home a high reputation for legal learning, and this reputation he succeeded in retaining unimpaired up to the last moment of his life. His learning was chiefly such as he had derived from law books, and this he had stored away in a memory of wonderful retentiveness, and in a form so admirably digested and methodized as to be ready for use at any moment when it might be wanted. Though ever one of the most laborious men in his profession I have known, yet he always found time for performing all the duties of kind neighborship, and for amiable and refreshing relaxation in the domestic circle. He possessed a clear head, a sound and generous heart, and was alike devoid of envy, of low selfishness, of narrow and irrational prejudices, and of overweening ambition. His impulsive nature was easily roused, but never ran into excesses

of any kind. He had studied his profession in a somewhat irregular manner, but he had treasured up a vast fund of legal learning, in a great degree derived from his study of adjudged cases, but which he had thoroughly digested and could promptly use in citation without being compelled to hunt for the volumes containing them in huge libraries. He always spoke with animation, and sometimes with no little fervor and emphasis. His manner was uniformly easy and natural, his diction chaste and unpretending, and his gesticulation decorous and impressive. No man ever heard him indulge in extravagant flights of imagination, give utterance to coarse and ribald invective, or pour upon a respectable antagonist streams of low and heartless ridicule. Nor was he at any time heard to talk merely for the purpose of display—as the custom of some is—or in reference to matters not properly appertaining to the case in hand. He preferred taking part in the trial of commercial causes, or in the discussion of such as were of equitable jurisdiction; but he was well fitted, both by temperament and intellectual training, for the vindication of the innocent or the prosecution of the guilty, before courts of criminal cognizance. Of the truth of this last assertion, it would be in my power to cite several conclusive proofs. I shall content myself at this time with the following recital of facts: In the year 1844, a deeply interesting trial for murder occurred in the Circuit Court of the County of Hinds, in which I had the honor of being associated with Mr. Yerger on the side of the defence. Our client was a young man of gentle birth, of spotless character, and of the greatest intellectual promise. Added to all this, he was a young gentleman of most prepossessing countenance and manners, and beloved and respected by all who knew him. He had only a short time before returned from the Virginia University, where he had graduated with great distinction. He was one of many children—all amiable, accomplished and devoted to himself. His mother was yet living, and was universally held to be a rare model of moral excellence and exemplary piety. His father was upon the theatre of active life, and was alike revered for his learning, his domestic and social virtues, and

his elevated patriotism. He had been long a member of the bar of Mississippi, and had recently retired from the position of District Judge of the United States, without leaving a spot upon the ermine which had adorned his person and which he had now voluntarily laid aside. This father was the late George Adams, and the son of whom I have been speaking was the late General Daniel W. Adams, whose feats of daring prowess during the late war have gained for him a high place upon the rolls of chivalry.

As I have already said, our then young and inexperienced client had but just returned home from the university. He was full of youthful enthusiasm, and held his father in almost idolatrous admiration. What was his surprise and indignation at seeing a newspaper, printed in the city of Vicksburg, containing a most cruel and insulting editorial attack upon that father's character? It was but natural that he should proceed at once to that place to demand a *retraxit* of the offensive article, or some other atonement for the outrage which had been perpetrated. This he did. On arriving at Vicksburg, he felt his situation somewhat embarrassing, for he did not know the editor personally. Being informed that he had gone to dinner, he set out in quest of him; and having reason to suppose that he saw the individual of whom he was in quest approaching him, he advanced towards him with the newspaper in question in his hand, and, pointing to the defamatory article, asked him whether he was the author thereof? This brought on an immediate collision, in which young Adams having fallen to the earth, beneath his antagonist, who was apparently making ready to slay him, he reached up his hand, armed with a pistol which he had succeeded in drawing from his pocket, and, placing it in contact with the hinder part of his adversary's head, fired it, and thus put an end to the contest. All the attendant circumstances clearly indicated that the killing which had taken place had been done in pure self-defence; yet, as it had grown out of a bitter political quarrel then raging in the state, a most furious and illiberal prosecution was instituted. Such was the character of the case in which, as I have said above, Mr. Yerger's

powers as an advocate were to be exerted. I well remember the occasion, and could almost repeat Mr. Yerger's line of argument. To say that it was logical and convincing would be but moderate praise indeed. It was one of the most compact, lucid, and overwhelming specimens of reasoning and pathos combined that I ever witnessed. Deeply were his own sensibilities enlisted, and deeply did he enlist the sensibilities of all who were in hearing of his voice. When he closed his speech I felt that our case had been won, and that all further addresses to the jury in behalf of our client would be superfluous. Not a single position which he had assumed were those concerned in the prosecution able either to overturn or seriously enfeeble. The jury brought in a verdict of acquittal in precisely eight minutes.

It was about fifteen years after this scene when I was attending court in the county of Bolivar, where his brother, J. S. Yerger, was presiding, that news of the sudden decease of the worthy personage of whom I have been speaking reached that village. Court was immediately adjourned in order to enable all who might desire to do so, and especially his distressed brother, to attend his funeral. His death had occurred under very striking circumstances. He was apparently in usual health, and had gone out upon a deer-hunt. Coming in sight of a fine buck, he fired at him. Seeing him fall, he ran, as is usual in such cases, to make sure of him, and on reaching the spot where the deer was dying, he fell, gun in hand, upon the prostrate form of his victim, and at once ceased to breathe. This was the beginning of sorrows for his amiable and bereaved family, upon whom calamity after calamity has since fallen, of a character more soul-moving and humiliating than anything recorded either in history or romance.

The second brother of the Yerger family, whom I propose to notice, was the circuit judge to whom I have just referred—J. S. Yerger. His mind differed materially from that of his elder brother, already described, and his stock of general attainments was somewhat larger. His mind possessed many of the best qualities which give fame at the bar. His powers

of perception were unusually quick; his judgment strong; his capacity for drawing subtle distinctions such as was in no small degree surprising to men of more dull and sluggish intellect; and he always expressed himself in the very language which seemed the best suited for the communication of his ideas. He had read deeply and generally, and was a good judge both of men and their motives of action. His knowledge of legal principles was wondrously precise and accurate, and I feel certain that his strong and retentive memory never relaxed its hold upon any useful information with which it had once been stored. He was of an eminently sociable disposition, and possessed conversational powers of a most entertaining and instructive character. He was blessed with a rich fund of humor, and excelled in lively and humorous narrative. He had a keen sense of the ludicrous, and could hit off a character particularly marked with eccentricities, or odd ways and notions, to the very life. In the whole course of my travels I have never met with a *nisi prius* judge who seemed able to perform with equal success the duties connected with that position. He was sober, industrious, energetic, prompt in the dispatch of business, gentlemanly and dignified in his demeanor, and in the highest degree civil and courteous towards all with whom he was compelled to have official contact. Judge Yerger delivered, some years ago, several eminently useful and impressive addresses to the grand juries of the courts wherein he presided, which I listened to at the time, and which I hope have been preserved among his papers, and may yet be presented to the public in a more convenient and durable form.

With the youngest of the three brothers of the Yerger family who have been specially alluded to above—Judge William Yerger—I had the happiness of enjoying a close and unreserved intimacy of many years' duration. It is gratifying to me now to be able to remember that I invited him into the first case in which he appeared in a Mississippi court, and that I caused a very respectable fee to be paid to him on the occasion; which same fee, though, I must confess to have very inadequately requited services such as he rendered. He was then

as I conjecture, about twenty-two years of age; and I could not help being most forcibly struck with an intellectual display so very superior to most exhibitions of the kind I have witnessed, and suggesting almost inevitably the examples of intellectual precocity of the younger Pitt and Alexander Hamilton. Mr. Yerger was even then a well read and able lawyer; a ripe and accurate scholar; a profound judge of men and affairs, and altogether free from those trivialities and follies which are the customary attendants of young and unchastened men. He habitually talked and spoke like a man of extended experience; was perfectly at ease in all company, without the smallest approach to effrontery or forwardness. Even when he had but just passed the dawn of manhood, he encountered repeatedly on the forensic arena lawyers of long-established reputation, who were known to have triumphed in a thousand intellectual conflicts, and never did the struggle terminate to his loss of reputation. It is difficult to say whether he most abounded in weighty and profound conceptions, or in apt and appropriate language; but in both these respects he was far superior to what is commonly met with at the bar, or encountered in miscellaneous society. It is almost needless to say that such a personage as this could not lack of professional patronage in the bosom of so discerning a community as that amid which he was now to struggle for fame and fortune. When I spent a few delightful days at Judge Yerger's hospitable mansion in the city of Jackson, in the year 1858, he was, perhaps, near the acmé of his fame. I found, though, to my gratification, that he was still ambitious of increased intellectual culture; that he was diligently keeping up with the literature of the day, and was daily seeking the improvement of his taste by the perusal of the ancient classics. He then seemed to have many happy and prosperous years before him. But alas! he has now gone from the presence of those who loved and admired him on earth, and can no longer interchange with them the language of respect and affection, or discourse in their hearing upon those lofty topics upon which he was once so sagely eloquent.

About the period when the Yergers made their first ap-

pearance in the state of Mississippi, the bar of Tennessee supplied to that of her sister state many other attorneys of ability, whose merits I should be pleased to record, did circumstances admit of it. Let me give a passing notice to a few of them.

William E. Anderson was a native of the county of Rockbridge in the state of Virginia. He was truly a Samson Agonistes, alike in his physical frame and in his gigantic mental proportions. He was considerably more than six feet in height. His shoulders were broad and massive. His limbs were huge and muscular, but of most harmonious proportions. His figure was perfectly erect, even when he was far past the meridian of life. His expansive chest gave shelter to one of the most generous and sympathizing hearts that ever yet palpitated in a human bosom. His physiognomy was most striking and expressive, and when kindled into excitement, as in his latter days he rarely was, there flashed forth from his commanding visage the mingled light of reason and sentiment, the effulgent beamings of which no man ever beheld and afterwards forgot. The temperament of this remarkable personage was what is in general known as the bilious-sanguineous; and it is, therefore, not at all surprising that he was recognized by those who knew him best as a sort of human *volcano*, ordinarily in a state of slumbrous repose, but capable of being stirred into sublime and terrible commotion by some adequate cause, and, in the moment of its fury, menacing with desolation and ruin all the living things of earth that might stand in the way of its overflowings. It is said by those who listened to his magical utterances in the moment of his happiest inspirations, that his voice exhibited a compass and power almost superhuman, and that his most exalted tones were sometimes distinctly heard to the distance of half a mile. He has left behind him the reputation of having never been a very diligent student of the learning appertaining to his own profession. He was certainly very fond of desultory reading. All admit, though, that he was by no means deficient in legal lore. Judge Anderson was a man of a cheerful and sympathizing turn of mind, and took

much delight in scenes of innocent festivity. I can myself vouch for his often saying very lively and witty things, and that he occasionally was heard to sing a mirth-moving song at the hour of midnight, for the entertainment of some of the more genial of his brethren of the bar, to their infinite merriment and gratification.

Andrew C. Hayes is yet well remembered by many of his surviving friends and early associates in Tennessee. He was also a native of Rockbridge county, Virginia, and owed his education to what was formerly known as Washington College. He removed to the state of Mississippi in the year 1837, where he made many friends, by whom his sudden decease a few years after he came among them, was very much regretted. He was a person of quite an original turn of mind, and was accused of not a little eccentricity. He did not profess ever to have been a very close student of his profession, from which, I am confident, he would at any time have withdrawn, had circumstances permitted. He sometimes spoke at the bar with considerable vivacity and force, and was certainly one of the most kind-hearted and companionable men I ever knew. He is reported by his early Nashville acquaintances to have officiated in Tennessee for some years, anterior to his removal to Mississippi, as a district attorney, and to have performed the duties of that position with much fidelity and success. He was much noted, when I knew him, for an unaccountable forgetfulness of names, and for his addictedness to unseasonable fits of abstraction, which often caused much innocent amusement in the court-house and elsewhere.

Colonel Hayes—as he was commonly called—commenced his career in Mississippi in connection with a gentleman who has since acquired much reputation in several states of the Union, and whose life has been quite an eventful one. I regret not to be able to speak more at large of him on this occasion—for Volney E. Howard was certainly no ordinary man. Born in Maine, he came to Mississippi when very young, and at once engaged in politics. He was for some years editor of the *Mississippian*, a newspaper yet, I believe, published, and

wielded for several years much influence over the affairs of what was called the Democratic party. He was a caustic and trenchant writer, and many suffered under his editorial castigation, both of his own and of the opposing political faction. For several years he was reporter of the decisions of the High Court of Errors and Appeals of Mississippi, and co-operated with the late Anderson Hutchinson in bringing out a new edition of the Mississippi Code. He afterwards removed to Texas; was one of the representatives of that state in 1850, and took an active part in securing the adoption of the compromise measures of that period. On the admission of California, he was sent out in an important official character to that new and rising state, and is understood to have there been exceedingly successful in the acquisition of both fame and fortune.

I have had occasion, in speaking of General Howard, to mention a name which springs a thousand painful and pleasant remembrances of the past. Anderson Hutchinson was a native of Greenbrier county in the state of Virginia. He here received a good English education, became familiar with the forms of judicial proceeding, whilst assisting his father in performing the duties of clerk of the courts of Greenbrier county, and removed, on attaining manhood, to Knoxville, in East Tennessee, where he read law and obtained a license to practice. Soon after this he joined the celebrated William Kelly at Huntsville, Alabama, in the practice of his profession. Subsequently, migrating to Mississippi, he formed a partnership with the writer of this hasty and imperfect sketch. In about ten years he left Mississippi as an adventurer to Texas, where he was favorably received and soon placed upon the bench of her Supreme Court. He had not held this responsible and dignified position long, when an event occurred of a most disastrous character, which, for a time, subjected him to much inconvenience and suffering. He was holding court in the city of San Antonio, and was superintending the trial of an important cause, when a body of armed Mexicans, whose proximity had not been suspected, broke into the court-house, and carried off the judge and several others

who were in attendance upon the court, to the Castle of Perote, where they were for some months kept in a state of close incarceration. Through the friendly interposition of the American Minister near the Mexican capitol, the late Waddy Thompson, Judge Hutchinson was at last released from imprisonment, when he returned to the state of Mississippi, and again engaged in the practice of law, becoming once more my co-partner in business. He died in the year 1853, beloved and respected by all who knew him. Judge Hutchinson did not at all excel as a speaker; but he was a deeply read lawyer, possessed a sound and vigorous intellect, and was the most industrious, persevering, and skillful office lawyer I have ever known. He was a man of the greatest simplicity of manners; credulous and confiding almost to a fault; and was universally recognized as an honest, public-spirited and patriotic citizen.

Amid that throng of meritorious attorneys whom I formerly knew as occupying elevated positions at the Mississippi bar, and who are now no longer among the living, it is impossible that I could fail to notice the Honorable Caswell R. Clifton. He, like Judge Hutchinson, had been a member of the bar in Alabama and had afterwards removed to Mississippi, where he almost immediately obtained a large and profitable practice. He was for some time a circuit court judge, and was highly approved as such; but he soon resigned this position, and joined Judge Mayes, who was at the time overwhelmed with professional business. He had, early in life, officiated as clerk of the District Court of the United States at Huntsville. When he died he was occupying the place of clerk of the High Court of Errors and Appeals. Judge Clifton was a man of extensive general reading, was possessed of much legal learning, had much success in early life as a chaste, pointed and entertaining political writer, and was admirably qualified to command respect and secure numerous friends in social life.

General John A. Quitman is familiarly known by character to every intelligent freeman in America. He was a brilliant and meritorious actor in the late Mexican war, was at one

time chancellor of the state of Mississippi; at a subsequent period of life he became governor of that state, and represented for several years one of her congressional districts in the national house of representatives. He is said to have been educated for the ministry; but not having much relish for that vocation, he studied law, and located in the city of Natchez about the year 1822. General Quitman's legal attainments were respectable, his scholarship quite considerable, and his general reading by no means contemptible. He was a ready and vigorous writer, but was singularly deficient in rhetorical energy and grace. He was a courageous and high-minded gentleman, and left behind him numerous friends and admirers.

Major William A. Lake, for many years a prominent member of the Mississippi bar, was a native of Maryland. He was a man of most majestic person, of polished and agreeable manners, and very extensively loved and respected. His standing at the bar was highly reputable, his personal popularity unsurpassed, and his untimely death, upon the field of honor, was universally regretted in the community where he had so long lived in the practice of every social and domestic virtue. It may be truly said of this amiable and accomplished man, that though proud and sensitive in his feelings, he was not at all irritable or petulant; and, though assiduous in maintaining his own dignity, he was never in the least degree arrogant or overbearing in his demeanor towards others.

Patrick H. Tompkins first saw the light in the state of Kentucky, where he was occupied in the practice of law for some years before he was attracted to a region where he was destined soon to rise to distinction, and to run a very brilliant career, both as an attorney and politician. The scholastic attainments of Mr. Tompkins were by no means extensive; his knowledge of law not much above what is usual at the bar; but he was richly endowed by nature, and well qualified by reason of his energy and close application to whatever he undertook, to obtain patronage as an attorney, and to acquire prominence as a party leader in bustling and exciting times. He was wonderfully ready as a speaker; reasoned upon or-

dinary facts with much astuteness and ingenuity, exhibited on all occasions a rich fund of humor, and bore along with him perpetually a weighty budget of apt and telling anecdotes, which he related in a manner often irresistibly comical. He appeared in many well-remembered criminal trials with great credit whilst he remained in Mississippi, and as a political debater, had few, if any superiors in the state. He served in Congress for several years, and upon the acquisition of California, removed to the city of San Francisco, where in a year or two he died.

Though, in performing the task in which I am now engaged, I have deemed it prudent to avoid, as far as practicable, the mention of individuals, however meritorious and distinguished they may be, who are yet living, I am tempted to make an exception to this rule in the case of the interesting individual now about to be mentioned.

Colonel Horace H. Miller was known to me very familiarly in the city of Vicksburg, some twenty-five years ago, as a young gentleman of much intellectual promise, and of many noble traits of character. He was then the editor of a newspaper of considerable circulation and of quite an extended influence. He was a zealous supporter of the Union in the memorable political struggle of that period, and gained much reputation as a manly, energetic, and judicious political writer. As a reward for his valuable patriotic services, President Fillmore, at my instance, conferred upon him an important diplomatic appointment, the duties of which he is known to have discharged with eminent credit. When he returned from abroad, Colonel Miller returned to the practice of the law, in which I rejoice to learn that his success has been equal to his merits.

Should I live twenty years longer, there are able and learned attorneys yet residing in Mississippi, who, should they have left the scenes of earth in advance of me, I shall take pleasure in delineating for the benefit of future generations; and I shall be especially encouraged to the performance of this task by the continued successful publication of the SOUTHERN LAW REVIEW, providing its editor of that period shall be

willing to aid me in preserving the materials needful for the preparation, by some more gifted pen, of a regular and complete History of the Bench and Bar of the South and Southwest.

In bringing this article to a close, I hope to be excused for the remarks which I deem it proper here to subjoin. At different stages of my own somewhat active career as a public man, I have been brought into contact, of a more or less familiar character, with a large majority of the lawyers who have been residents of Mississippi during the last forty-five years. It has been my fortune likewise to traverse, at different periods, most of the states and territories comprised within the limits of this wide-spread Republic; and I now take pleasure in averring that I know of no region where the members of the bar, as a class, have shown themselves entitled to more consideration and respect than those of the yet loved and honored commonwealth in which my own days of early manhood were spent, and where I have been formerly the recipient of honors and kindnesses far beyond any merit which I possessed. Upon the Bench of Mississippi many learned and able judges have presided in the last half century, whose recorded opinions will "stand the test of scrutiny, of talents and of time;" and among the servitors of the Forum there has ever prevailed in this once prosperous but now unhappy state, a nice and delicate sense of professional and of personal honor, and a freedom from immoral habits and coarse incivility of manners, which would do credit to any age or country.

NOTE.—After the above article, or chapter, as it now is, had been written and sent forward for publication in the SOUTHERN LAW REVIEW, a correspondence occurred between the enterprising publishers of that excellent periodical and myself—the result of which was an arrangement for the publication by them of the present volume, containing, as it does, the numbers which had previously appeared in the REVIEW, together with much other matter in addition, subsequently prepared by me for that purpose. It thus became necessary to divide all that might find a place in this work into chapters—prefixing to each a short statement of contents. This explanation of particulars has been deemed proper for the satisfaction of those who may honor these hasty and imperfect sketches with a perusal.

F.

CHAPTER V.

General Remarks.—Judge Rucks.—O. B. Hubbard.—Amos R. Johnston.—John N. Drake.—William Vannerson.—General Allen.—Colonel McClung.—Nicholas Coleman.—John M. Chilton.—Beverly Hughes.—Hinman.—William B. Redd.—Buckner C. Harris.—Wiley P. Harris.—George Winchester.—Richard H. Webber.—John W. C. Watson.—Roger Barton.—Reuben Davis.—Luke Lea.—L. Q. C. Lamar.

Few things have been more the subject both of playful ridicule and literary sarcasm than an over-great facility in changing one's opinions, and, as a consequence, an over-readiness in modifying one's course of action. Fickleness and inconstancy of purpose in affairs of importance are in truth less apt to be pardoned than a dogged and wilful obstinacy which is alike impervious to the suggestions of reason and the persuasions of sympathizing tenderness. And yet, considering the exceeding feebleness and inadequacy of our intellectual faculties—the uncertainty of all our means of intercommunication with the various objects which surround us—the constantly changing condition of all those things with which it is permitted to us to hold contact—and the numberless delusive influences of every kind which are ever dominating in a greater or less degree upon our fancies and whole emotional nature—it would seem that nothing could be more absurd than that vanity and presumption so often displayed by men even of the meanest mental endowments, in claiming for themselves the glory of never altering resolves when once formed, and never declining to do what they have on some former occasion declared it to be their intention to do. The fact is, we must modify our opinions in accordance with the shifting circumstances amidst which we are thrown, or become victims to our own wilful obstinacy. We must vary our action when some new and unexpected light beams in upon us, or stumble fatally over obstacles that a little good sense and tact might have avoided. We must be willing on some occasions to recall even our own words, either as to ourselves

or others, when we find them to have been rashly and injudiciously uttered. And thus do I find the case to be with myself at this very moment: for, having heretofore announced, as a general rule, that I should in these sketches confine my remarks to persons no longer *living*, I have, for several reasons which seem to me at least to be quite satisfactory, so far altered my intention in this respect, that the exceptions to this rule which may hereafter occur will be, I apprehend, far more numerous than some of my readers will consider judicious and politic.

Having thus premised, I will call attention for a moment to one whom I have not heretofore mentioned, but who is entitled to a far more extended notice than that which I am able at present to accord him. James Rucks was born in the county of Granville and State of North Carolina. His parents removed to the State of Tennessee when he was in his seventeenth year; but the subject of these remarks soon returned to the State of his nativity for the completion of his collegiate education. Having taken the customary degrees at the University of North Carolina, he returned to Tennessee, read law diligently and successfully for two years, and commenced the practice of his profession in Carthage, then a most promising town, where he soon obtained a profitable business, in competition with some of the ablest attorneys that Tennessee could then boast. He is reported by his friends of that period to have been singularly industrious in the preparation of his cases, and remarkably clear and forcible in his manner of discussing them in Court. He subsequently located in the town of Lebanon, where he remained until about the year 1828, when he removed to the city of Nashville, and was associated in business with the celebrated Felix Grundy, and General Gibbs. He afterwards became one of the Circuit Judges of Tennessee, and, in that responsible position, gave universal satisfaction. He removed to the city of Jackson, in the State of Mississippi, in the year 1839. Being now in affluent circumstances, he seldom appeared in court as an attorney, but I had the honor of occasionally hearing him in the argument of causes of considerable magnitude and difficulty, and can

attest his ability as a jurist, his astuteness and ingenuity as a reasoner, and his remarkable address and plausibility both before courts and juries. Judge Rucks was a man of commanding person, of most refined and pleasing manners, and of a generous and glowing benevolence, and was, in all the duties of life, as exemplary a person as I have ever known. He was residing quietly on his plantation in the county of Washington, when he heard of the fall of Fort Donelson, in February, 1862; after which, he is reported never to have eaten or slept—dying on the fourth day after the reception of this overwhelming intelligence,

O. B. Hubbard, was nearly connected with Judge Rucks, having married his sister. I knew him well as early as the year 1826, in the neighborhood of Tuscumbia, Alabama, where he was occupied in the creditable employment of teacher of a classical school. He was a native of Lincoln county, in the State of Georgia; was reared in the State of Tennessee, where he practiced for many years along the banks of the Cumberland, in connection with a well-known attorney, William McClain, Esq., and, in 1839, removed to the town of Canton, Mississippi, where he is still most respectfully and affectionately remembered. Mr. Hubbard was profoundly acquainted with the ancient languages, Latin, Greek, and Hebrew; had thoroughly mastered the science of law, and was a very sensible and pleasing speaker. He left behind him when he died, in 1844, a spotless reputation for integrity and all the domestic and social virtues, and his untimely decease awakened feelings of painful regret among his numerous friends and acquaintances both in Mississippi and Tennessee.

In January, 1831, it chanced that I had temporary charge of a newspaper of some standing and circulation then published in the city of Vicksburg. Having occasion one morning to visit the printing office from which this paper issued, I was unexpectedly accosted by a young gentleman of most modest and prepossessing manners, who was at the time in his shirt-sleeves, and had been evidently the moment before engaged in setting type for the newspaper. He held out to me a neatly written communication which he desired me to

read. I did so at once, and found that it purported to have been written by a practical printer, and was designed to vindicate the dignity of his calling. The writer very touchingly complained that persons engaged in mechanical pursuits were not received upon terms of social equality in Vicksburg, which the writer regarded as a discreditable thing and worthy of the most marked censure, evincing, as he conceived, the prevalence of an *aristocratic* spirit in the community wholly unsuited to republican institutions. I do not believe that Franklin himself, on the memorable day of his first arrival in the renowned Quaker City, when, as he describes himself, he was leisurely sauntering along Market street devouring a roll of bread which he had just purchased—even under the inspiration of his future wife, Miss Read, whom he saw that day for the first time—could have drawn up a more touching, decorous, and manly defence of that respectable class of artisans among whom he had cast his lot, than this interesting young stranger now tendered for publication in the columns of the newspaper of which I was for the moment the *magister*. Deeply interested with the vigorously penned article thus submitted for my examination, I lost no time in expressing my willingness that it should appear in the newspaper of next morning, and it gave me pleasure to accompany it with some laudatory comments such as I judged suitable and deserved. On enquiring who this young man was with whom I had thus informally come in contact, I found that he was a member of a highly reputable family in Tennessee; that though then not more than twenty years of age, he had already acquired some reputation as a political writer in the Western District, as it was then called, and that he was there part-owner of a newspaper with another young gentleman by the name of Zollicoffer, in whose hands he had left the management of their joint concerns during his absence for a few weeks. This enterprising young man was the now famous Amos R. Johnston, for many years past, one of the most distinguished members of the bar of Mississippi. The Zollicoffer referred to was no other than the celebrated General Zollicoffer, for many years the editor of the leading Whig journal in the city of Nashville,

afterwards a prominent member of the House of Representatives in Congress, and one of the first victims of the late unhappy civil war. Amos R. Johnston, a few months after I first saw him, was the editor of an able and influential newspaper in the interior of Mississippi, subsequently read law, and obtained a license to practice. He has, at different times, held a number of important civil offices in Mississippi, and is now, I learn, a member of the State Legislature. It has been my fortune to see much of this accomplished gentleman in the contests of the forum, and never without receiving constantly renewed evidences of his intellectual strength, his skill and adroitness in discussion, and his high-bred courtesy in social intercourse. A more upright, patriotic, and thoroughly trustworthy personage is not to be found upon the roll of attorneys in any State of the Union.

Judge Johnston was many years ago concerned in the defence of a young man charged with murder, in which I had the honor to be associated with him. The killing had been productive of intense local excitement, and it was deemed most judicious not to bring on a trial of it immediately. The young man was detained in prison several years, during which period a somewhat curious event had occurred. A peach-stone accidentally cast from the window of his cell had germinated and grown into a tree large enough for the prisoner to pluck ripe fruit from its branches a few weeks previous to his release from incarceration. Having heard of no corresponding instance, I have thought proper here to advert to the particulars just mentioned.

It has now been some forty-two or more years since the dangerous and absurd dogma of nullification first erected its Gorgon crest in South Carolina; from which state its baleful influence quickly diffused itself over many of the slave-holding states of the South and Southwest. Various attempts were made by the enthusiastic devotees of this plausible but most deleterious heresy, through newspapers, popular meetings, state conventions, &c., to build up a nullification faction in the State of Mississippi. It is a remarkable fact that several of the most zealous and effective propagators of the

extreme State Rights creed were natives of Northern states. The good people of Mississippi in general, at the period referred to, showed little disposition to engage in chimerical projects of any kind, or to do aught to enfeeble the ties that bound them to their fellow citizens of other states. It was in the spring of 1833 that I had occasion to visit, as an attorney, the little village of Brandon, distant from Jackson, the capital of the state, about ten miles. A Circuit Court was about to be held, where I had a case or two pending. On reaching the hotel where I usually sought entertainment, having descended from my horse, I proceeded to the bar-room for the purpose of registering my name and depositing my saddlebags. There I saw a young man in attendance, officiating as bar-keeper, who accosted me by name and seemed to be really pleased at my arrival. He was clad in most homely vestments, wearing a coarse green baize round-jacket and trousers and waistcoat to match. This individual was of ordinary stature, of good physical proportions, having a bright and genial face, and would have been pronounced handsome anywhere. He was smoking a cigar, apparently with much gusto, and was the very personification of cheerful and contented repose. On asking his name, he told me it was John N. Drake, and that I had been introduced to him in the town of Clinton, a month or two before, by a valued friend of mine. I then remembered him very well, and enquired how he had been since I saw him last. He answered that his health had never been better, but that he had incurred, since I met him in Clinton, some rather severe pecuniary calamities. His explanation of these may be thus summed up: He had brought a considerable number of family negroes with him to Mississippi, from Tennessee, his native state, whom, on arriving in Clinton, he had been advised to take with him to the sugar region of Louisiana. He had, accordingly, proceeded with them to New Orleans, where he concluded to dispose of them. He had then been enticed to the gambling houses of that city, where he had lost every dollar that he had in the world. He disposed of all his usual wearing apparel in order to obtain the means

of getting back to Tennessee, and, with a portion of the proceeds of this sale had supplied himself with the garments which he was then wearing. Every cent of the remainder thereof had been spent by him in journeying from New Orleans to Brandon. There he had sought temporary employment in the hotel where I found him, until something should "turn up in his favor."

Deeply distressed by this tale of woes, I felt much desire to do something to rescue a young person of so many attractive qualities from the fate to which he seemed to be hurrying; and having been invited to take supper that evening at the house of a mercantile friend, I made it my business to bring this unfortunate case to his notice. From him I learned the following interesting facts. A debating society existed in the village of Brandon, which was in general attended by many of the citizens. At one of the recent meetings of the society, Major Drake had delivered a speech of such extraordinary eloquence that the whole community was now resounding with his praises, and all were anticipating for him great fame as an orator. I went to see him immediately, and enquired as to his politics. He avowed himself to be a zealous democrat and a warm supporter of the Federal Union. I then made known to him that a Nullification meeting was to be held the next day in the court-house, during the recess of the court, at the dinner hour, and I wished him to attend it for the purpose of aiding in the counteraction of a movement which I could not but deem fraught with the greatest mischief. He made no objection to coming to the meeting and addressing it, except on the ground of his shabby habiliments. But being persuaded that these would at least not operate to his disadvantage, but, perhaps, somewhat deepen the *surprise* which his speech was expected to produce, and thus add to its effect, he at length consented to be on hand at the proposed time and place.

The next day, according to appointment, when the court adjourned for dinner, the sheriff proclaimed at the door of the court-house that a State Rights meeting was about to come off, and in rushed a most tumultuous throng to witness.

such a proceeding as up to that moment had never occurred in that particular locality. The meeting was called to order, and duly organized, and the gentleman who it was understood was to take a leading part in the discussions of the hour, rose to his feet and talked very furiously for a long time, closing with the presentation of resolutions of the genuine South Carolina type. The speech was apparently very well received, and a vote was about to be taken upon the resolutions, when suddenly rose to view my friend of the green baize round jacket, and announced his wish to utter a few words in opposition to the resolutions. He commenced in quite a solemn and formal manner, and uttered one of the most beautiful and impressive exordiums I ever listened to. He then entered upon the discussion of the great constitutional question involved, and evinced a most thorough acquaintance with all the leading topics appertaining thereto, as well as with the then existing state of political parties. He dwelt upon the value of the Federal Union, quoting freely from Jackson's proclamation, which had a short time before been promulged, and most impressively depicted the sufferings which must attend upon a civil war, which he deemed to be then plainly menaced. His peroration was full of patriotic enthusiasm and contained a thrilling and felicitous eulogy upon General Jackson, whose numerous battles he specified by name. Having learned that many of the old soldiers of Jackson were then present, he appealed to them most earnestly, not to abandon their venerated leader in arms, in this, his most difficult and perilous struggle to save his loved country from dishonor and ruin.

It is almost useless to say that after such a speech as this, there was no possibility of passing the nullifying resolutions. The meeting soon broke up in confusion, and the judge just then returning from his dinner, the court resumed its business.

As soon as this important result had been attained, I went to Major Drake, thanked him for his noble and successful effort, and said to him: "Now, sir, your fortune is made, if you choose to gather the harvest of renown and emolument which is spread out before you. The victory which you

have just achieved will make you known, and favorably known, to all Mississippi. Such oratorical powers as you have displayed should by no means be withheld from the forum. I propose to you to become at once a member of the bar. I will hand you a short list of law-books which I would urge you to read without delay. In regard to obtaining a license to practice, I will see that this shall cost you no difficulty. I learn that the district attorneyship in this district is now vacant. Announce yourself at once as a candidate for this position. Your speech of to-day will ensure your election, if followed up by one or two addresses of similar vigor in the other counties of the district." He promptly consented to act upon my advice, was a candidate and was elected. I procured him a license upon a mere nominal examination, and he afterwards became by far the most efficient criminal prosecutor that this portion of the state had ever known. In two months after the Brandon scene, he was busily occupied in drawing indictments, in counselling grand juries, and speaking before petit juries, with a force, ingenuity, and effectiveness which it was, indeed, most gratifying to witness. He never over-acted his part, however, attempted the perversion of the law or evidence, or sought to bring about the conviction of those whom he had not good reason to believe to have been justly accused. On no occasion was he known to display a particle of personal malevolence towards the accused, and I am sure never made an effort to secure a conviction not fully warranted by the evidence adduced. He would have regarded it as altogether beneath the dignity of the office which he held to seek a verdict not in consonance with the laws of the land and the eternal principles of justice. But all the famed wealth of Golconda could not have bribed him to favor the release of those whom he felt to be guilty, or to relax in the least degree in the performance of the duty assigned him. That in several flagrant and yet well remembered cases, Major Drake exerted himself in the prosecution to the full extent of his abilities, in order to secure such salutary examples of punishment as might "magnify the law and make it honorable," need not be denied; but in cases where he had reason

to believe the accused to be really innocent of the offence which he was alleged to have committed, he never hesitated a moment to ask of the court to allow the entry of a *nolle prosequi*.

Whilst Major Drake was thus acting as District Attorney, many trials occurred of an exceedingly grave and difficult character; and often had he to contend against as able and experienced barristers as the Republic anywhere contained. I am sure that he was never signally worsted in these encounters, and that his reputation as an advocate was ever on the increase so long as he continued to hold the position of District Attorney.

There was one case which arose for trial at this period which seems to me to call for some notice here.

The inhabitants of the town of Clinton were one morning roused from their accustomed quietude by the intelligence that a murder had been committed during the preceding night, which seemed to be marked with some rather peculiar circumstances. A man of much respectability in the settlement—a Mr. Hinson—was reported to have been slain, about the hour of midnight, by one of his slaves. This gentleman had enjoined the slave—a negro man—not to intermarry with any female who did not live upon his own farm. He had expressed a particular objection to his marrying any resident of the town, for reasons not needful to be here specified. This prohibitory regulation had been set at naught by the man in question, who had formed a connubial union with a mulatto woman belonging to one of the citizens of Clinton, and was in the habit of coming to town at night in order to enjoy her society. The master, becoming apprised of these facts, determined to make an example of him. He accordingly came into Clinton about midnight, called loudly for the boy at the door of the cottage where he was lying in bed, and, attended by a single resolute friend, broke into the house for the purpose of arresting this second Sampson in the arms of his modern Delilah. As he advanced, in the dark, towards the bed, the negro man leaped therefrom, armed with a sharp knife, and cut the intruder upon his pleasures literally in

pieces. Moving then towards the door, he encountered Hinson's auxiliary, and inflicted several terrible gashes also upon him. He then made his exit, and fled beyond the limits of the town to some forest-grounds adjacent, where he sought refuge.

Daylight broke upon a most horrific scene. Hinson was now dead, and his friend in a most helpless and suffering condition. A number of the young men of the town, in the progress of the morning, set out in quest of the murderer, who for a long time evaded the pursuit, and when discovered seemed resolved to resist all attempts to apprehend him. He was fired upon by the pursuing party, wounded in the legs, and so far disabled as to be constrained to surrender. He was then brought back to town, and carried immediately to the room where his master's corpse was lying, and compelled to approach the exanimate body and look upon the horrible wounds which he had inflicted. The wretched creature burst into tears, fell upon his knees by the side of his dead master, and uttered howls of remorseful agony which might have been distinctly heard at the distance of a hundred yards. A more distressful spectacle could hardly be imagined.

Meanwhile the excitement awakened by this occurrence in town had become most intense. Preparations had been actually made for the public execution of the offender, and a huge pile of wood had been deposited in one of the principal streets upon which it was designed to burn him alive. So soon as I learned of these facts, I determined to interpose for the prevention of a deed of atrocity which I felt would be a great disgrace to the community, and from which no good whatever could possibly arise. On approaching the multitude assembled for the purpose of participating in or witnessing this monstrous violation of the law of the land and of public decency, I mounted an empty goods-box lying on the streetside, and delivered a short address, and, among other things, informed the crowd that I had been employed by the family of the deceased to aid in prosecuting their intended victim in the Circuit Court of the county, and that as the community had the good fortune to have an able and faithful District Attorney,

there was no reason to doubt that the culprit would be in a few weeks brought to justice. More easily than I had anticipated, those whom I addressed consented to forego their scheme of vengeance, and the accused was quietly conveyed to the county jail, where he remained until a trial of his case could be had.

When the trial came on, it was found that some explanation of the particulars connected with the act of killing would be more conveniently explained by the wife of the prisoner than in any other way, and therefore she was examined as a witness. At the time of this trial, marriages, such as were customary among slaves, were not so clearly recognized by the judicial tribunals as to make her evidence incompetent. Her demeanor in court was marked with much trepidation and anxiety; and she was observed to cast many a look of sympathizing solicitude towards the prisoner, who all the while exhibited a stern and unbroken composure. When questions were propounded of a nature clearly calculated to develop facts unfavorable to the accused, she would weep profusely before responding thereto, and when she did so she seemed to do it almost to the relinquishment of her own vitality. When the testimony had all been adduced, and the summing up commenced, the prisoner still remained calm and unmoved, whilst his wife seemed ready to fall into convulsions. The jury retired, and in a very few moments brought in a verdict of *guilty*. Never did Major Drake acquit himself more nobly, and the speech which he made was on all sides most warmly commended. The court adjourned for dinner, leaving the prisoner in the box, in care of the sheriff, until the judge should return and pass sentence. During this interval I lingered in the court-house, and beheld a scene which I can never forget. The prisoner sat quietly in the same place which he had occupied during the trial. He was perfectly erect, and seemed not in the least degree discomposed. Considering his very dark complexion and the fact that he had always been in servitude, and had therefore been cut off from all opportunities of moral and intellectual training, the dignity of his aspect and the decorous gravity of his whole bearing on this trying occasion

could not fail to impress all present very deeply. Presently I saw the prisoner beckon to his wife, who was standing not far distant from him, to approach more nearly. She did so; when he leaned forward gently, and in hoarse and guttural accents said: "Can you not come and see me once before I die?" "I will if my master will let me." "Who is your present master?" I enquired; for I had learned that her former owner had sold her, after the commission of the murder. She answered, "Squire Garner." Knowing this gentleman well, and seeing him to be in the court-house, not far distant, I asked him, in quite an audible voice, to give his consent to this last interview between husband and wife. Though an eminently humane man, he hesitated for a second or two, evidently fearing to give his sanction to what might possibly lead to a still further demoralization of this unhappy female. During this brief period of delay, the eyes of the woman were fixed upon him with a most intense and anxious expression. She was evidently in the deepest agony of soul; and the afflicted and tortured spirit operating upon a nervous and enfeebled physical system, a spectacle was presented to the view that a painter might have delighted to portray. *The blood poured in torrents from both nostrils!* The effect of this display was instantaneous: Squire Garner at once agreed to grant the boon thus implored. Viewing these signs of devoted affection on the part of this apparently deeply distressed woman, the beautiful lines of the poet naturally arose in my memory:

"Come rest in this bosom, my own stricken deer,
Though the herd have fled from thee, thy home is still here;
I know not, I ask not, if guilt 's in thy heart,
I but know that I love thee, whatever thou art!"

A few weeks only elapsed before the convict expiated upon the scaffold the enormous crime which he was accused of having perpetrated. A vast multitude was in attendance on this occasion, of all classes, colors, and conditions. Among others the bereaved wife came to behold the taking away of the life of one who had been to her a source of so much solicitude and of so much domestic beatitude. She came not in mourning weeds; she came not shedding tears of nuptial commiser-

ation, and refusing to be comforted. She came not alone, with tremulous step and heart-breaking agony. But she came dressed forth in gay habiliments; with elastic step and hope-gilded visage; and attended by one who so soon as this curious hanging-scene should be over, was to supply the place of him whom she was about to lose forever; thus exemplifying in a manner not at all honorable to human nature or to the attributes of womanhood, the melancholy truth that many of our strongest emotions, and even of our most tempestuous passions, are as fleeting and transient as the morning-dew upon the grass of mid-summer, or the bubble upon the swift-running stream of winter. A less ardent admirer of the female sex than I am might be almost tempted to exclaim that the heart of womanhood hath mysteries that neither philosophers have yet penetrated, nor bard, nor novelist depicted.

I first saw William Vannerson in the year 1830. He was then a white-haired gentleman, and was supposed to be about fifty years of age; though his physical sprightliness and vigor seemed not to be at all impaired. He was full of hope and animation, and he appeared to take the greatest delight in the oratorical exertions of the bar. He had devoted his attention almost exclusively to the defence of persons charged with infractions of the criminal law. He had much felicity of speech; was much noted for his powers of ridicule, and on some occasions showed considerable capacity for awakening the tender emotions of the soul. His early education was imperfect, nor had he supplied his deficiency in this respect by extensive reading of a kind best adapted to improve and expand his intellectual faculties. He was never a well-read lawyer, and I suppose that he had seldom, if ever, filed a bill in Chancery, or argued a case of much difficulty on the civil side of the docket in common law courts. He was, when I first met him, practicing his profession very actively in the City of Natchez. He subsequently located in the town of Monticello, and attended for many years some dozen or more courts in what was known as the Piney-woods portion of Mississippi. He had extraordinary tact in securing employ-

ment in cases of the kind best suited to his taste, and had the reputation of being quite successful. When he did not deem it altogether safe to go to trial, he showed wonderful address in obtaining a continuance, and it is related of him that on one occasion an astute and learned judge, who is yet living, when Vannerson applied for continuance, after hesitating for a few minutes whether he would accede to his wish, on Vannerson's announcing his intention to draw up an affidavit in support of his application, hesitated no longer, saying: "Oh! Mr. Vannerson if you are going to draw up an affidavit, the continuance which you ask will be at once granted."

Mr. Vannerson died only a year or two since, and I am told, that when *in extremis*, he confessed to being one hundred and nine years old. Vannerson was very remarkable for the hopefulness of his temper, his ambition for distinction as a forensic advocate, his genial habits, and his multitudinous stock of personal anecdotes, all of them of a ludicrous cast, and some bordering upon obscenity. He had not a slight alloy of *egotism*; but it was always of an inoffensive character, not at all implying envy of others, or a desire to enhance his own personal consequence by detracting from those with whom he was thrown into collision. Thinking very highly of his own powers as a speaker, he assumed the *soubriquet*, some forty years ago, of the "*Napoleon of the bar*;" and his associates were kind enough often to allude to him by that high-sounding title, and especially when he was himself present. One of the last occasions on which I remember him to have appeared in the City of Jackson was before a Court of Inquiry composed of several justices of the peace, in a case of alleged murder. He reached the place of examination after one or two witnesses had testified, and, on taking his seat, and looking around him to see what adversary he would have to encounter, he deliberately wrote on a piece of paper, which he handed to the opposing lawyer, these words: "The Napoleon of the bar has indeed arrived, but he regrets to find that he is to meet a *Wellington*." The gentleman thus addressed, scribbled on the same paper in response: "Napoleon is not in the smallest danger of a Waterloo defeat, as it is not possible that

a Blucher, with his fierce Prussian troops, will appear upon the field of battle."

Mr. Vannerson, though married twice, had no children ; but General Allen, who was killed by Colonel A. K. McClung in a duel about forty-two or three years ago, was his stepson, to whom he was most tenderly attached. It chanced that I saw him not long after this lamentable affair occurred, and I remember him to have manifested the deepest distress over the decease of one so dear to him. I knew both of these combatants well, and can testify to their being both of them young men of the richest intellectual promise, and of the most undoubted gallantry. Each of them was just entering upon the practice of the law, and their respective friends were speculating very favorably as to their future career.

Of Colonel Alexander K. McClung I have spoken elsewhere with some minuteness. But I am not at liberty to leave him out of the list of distinguished attorneys who formerly adorned the bar of Mississippi. He never enjoyed a large and lucrative practice at the bar, for which only one good reason could be assigned—he never devoted himself arduously to his chosen profession. He had read many works of science and general literature, but he had never looked into many law books. With the elementary principles of jurisprudence he was thoroughly conversant, and no man delighted more than he did in reading, or in listening to the oral enunciation of, a profound, ingenious and lucid legal argument. The ordinary questions of *meum* and *tuum* had no charms for his proud and soaring intellect. His argumentative powers, when fully brought forth, were such as to awaken the highest admiration. Had he been able to endure the *viginti annorum lucubrationes* (as Blackstone calls them), there is no knowing the height of celebrity which he would have been capable of attaining. Many likened his intellect to that of his illustrious uncle, Chief Justice Marshall; and his eulogy upon the life and character of Henry Clay, which I had the pleasure of listening to in the State House at Jackson, will compare favorably with any of the numerous eulogies delivered upon the renowned orator and statesman of Kentucky, which his lamented decease

evoked. Growing tired of life, he died by his own hand, a few years subsequent to this his latest great intellectual achievement.

John M. Chilton was a native of Virginia, and belonged to a family connection, there resident, of the highest respectability. He was a sound and well-informed lawyer, an easy and forcible speaker, and was for some years engaged in a very profitable practice in the State of Mississippi. He afterwards removed to New Orleans, where he did not long survive.

Nicholas Coleman was born in Kentucky, and represented one of the congressional districts of that State when he was not yet thirty years of age. He afterwards removed to Vicksburg, where for many years he was much respected as a lawyer, and universally beloved in social life. He was a person of amiable temper, of refined and gentlemanly manners, and maintained, during his whole career at the bar, a most creditable standing.

Beverly Hughes was a native of Virginia. He located very early in life in Huntsville, Alabama. Here he was quite successful in the accumulation of business as a lawyer, and acquired much general popularity. He was a member of the convention which framed the Constitution of Alabama, and sustained in that body, marked as it was for ability, a highly creditable rank. He afterwards removed to Vicksburg, where he died about a half century since.

When Mr. Hughes died he was in partnership with a Mr. Hinman, whom I once knew very well, but whose Christian name has now escaped my memory. Mr. Hinman was a native of New England, had there received a thorough education, and enjoyed much reputation at one time in Mississippi, both as a cogent and polished speaker and a pointed and vigorous writer. He was a man of most genial disposition, of great vivacity of temperament, and of an amiable and sympathizing heart. It is painful to be compelled to add that he died a victim to intemperance. I cannot say that I ever saw him absolutely sober, nor do I believe that I ever met with him when he was so stupefied by strong drink as to be

wholly unfit for rational conversation. He was for some years an object of general commiseration on the part of his brethren of the bar, to all of whom he had ever been kind and obliging.

During the last years of Mr. Hinman's life he was professionally associated with a gentleman whom I had familiarly known from a child. William B. Redd was a native of Virginia, and had at no time received the advantages of a classical education. He wandered forth from the bosom of the "Ancient Dominion" before he was fully grown to manhood. Where he read law I never knew, but he had never fully mastered his profession. He had evidently never devoted himself very closely to the study of any branch of science. He was one of the handsomest men I ever saw, being of majestic height, of well-shaped bust and limbs, and being blest with a face every feature of which was calculated to charm the gentler sex. His eyes were large and of dazzling brightness; his forehead was of noble expansion and without a furrow, and he had a profusion of dark chestnut hair which it was most charming to look upon. His voice was of the most exquisite sweetness of intonation, and his physical movements were replete with grace and impressiveness. He had not the least turn for argument of any kind, and I never knew him even to attempt it. He sometimes was not a little pathetic at the bar in cases admitting of it, and he, on one or two occasions, was said to have delivered popular harangues not a little pleasing to those whom they were intended to impress. He was much devoted to genial companionship, and was unhappy enough to outlive his reputation as a speaker. I never saw him angry in my life; he was wholly devoid of envy and all illiberal feeling, and I am satisfied that there was not a human being known to him whom he would not willingly have aided and comforted so far as that was in his power.

Buckner C. Harris was born in the State of Georgia, and belonged to a family connection unusually prolific in abilities such as conduce most to the acquisition of personal popularity and high social rank. Whilst he remained in the State of Mississippi he was located in the county of Copiah, where he was for many years the acknowledged head of the bar. As a

Circuit Judge he was much respected, and he would probably have reached higher official positions in Mississippi than it was his fortune to attain, had he not removed, more than twenty years ago, to the State of Texas.

I recollect an anecdote I once heard from him, which I shall here take the liberty of reciting. Judge Harris' judicial district embraced the county of Simpson, of which Westville was the seat of justice. Here there were several little taverns where plain accommodations were afforded to such as might choose to apply for the same. A man had recently gotten possession of one of these establishments, and very naturally desired to obtain as large a share of the public patronage as he could. A term of the Circuit Court was to commence in a few days. So mine host availed himself of his ability to write legibly by addressing a letter to the Judge, urging him, when he should come to Westville, to give his hotel a trial, and to bring in his company all the attorneys he could, promising very precisely to do all in his power to accommodate them satisfactorily. The Judge, painfully remembering that he had never had any but the most uncomfortable quarters in Westville on former occasions, when holding Court there, readily closed with the proposal, and reached the hotel in question on a bright Sunday evening. He asked to be shown the room he was to occupy, and learning the number thereof, he proceeded to it without delay. On reaching the door of the room and opening it, he found a gentleman and lady in it, and immediately returned and asked to be shown another room. Some little delay occurred before this was done, and when he reached the second room he found that also occupied. He then came back to the bar and rather indignantly addressed the host upon this irritating subject, saying to him: "Pray, sir, are you keeping a bawdy-house? I found the first room you directed me to occupy already in possession of a man and woman—the latter of whom I understand to be your wife—who were lying together upon the bed. On opening the door of the second room, I found the same woman lying on the bed there, but attended by another man. I wish to know what all this means." "My dear Judge," ex-

claimed the good-natured tavern-keeper, "I beg you will be composed. It is not possible that I can for the present say a single word concerning the matter of which you complain. You see, my dear Judge, I am a candidate for constable in this beat, and very hard run for votes. Were I to make any parade of my wrongs before the election shall have occurred, I should inevitably be beaten. The election will come off to-morrow, after which I promise you that there shall be no similar cause of complaint."

Judge Harris was still a resident of the county of Copiah when I had the honor to be invited thither some time in the year 1839, for the purpose of taking part in the trial of a case of alleged murder. It was then that I first saw a nephew of his who has attained great distinction both as a lawyer and statesman. Wiley P. Harris, who has so long held a high rank at the Mississippi bar for eloquence, learning, and argumentative power, was at the period referred to about twenty-one years of age. I was much impressed by his modesty of aspect and demeanor, his bright and hopeful face, and his elegant and becoming costume. He made a speech on this occasion which would have established his reputation at any bar in America, and awakened expectations of future fame and eminence which it is no flattery to say have been fully realized. Mr. Harris delivered several speeches in the Congress of the Union, a year or two before the late unhappy civil war, which are yet spoken of in terms of warm commendation. A man of his commanding abilities and extended influence has a most favorable opportunity opened to him in the state where he has so long resided, of reconciling conflicting factions, and restoring general concord and brotherhood in the bosom of a much distracted and deeply suffering commonwealth.

George Winchester is a name which is doubtless yet familiar in Mississippi. He was born in one of the New England States, and presented all the indications of having been well derived, and of having been carefully trained and brought up in the best society. His knowledge of the ancient classic writers was far from being superficial, and what he had learned at school, his tenacious memory retained even in old age.

For many years, he maintained a high reputation for legal learning, and his assiduity in the performance of professional duties knew little relaxation whilst I had intercourse with him. He was not an orator; but he spoke always in refined and polished language, and with impressive kindness and urbanity. I do not suppose that a single word of personal incivility, or of coarse revilement, ever passed his lips at the bar. His mind was more subtle than vigorous; more elastic in its movements, than profound in its explorations. He was much given to the drawing of overnice distinctions, and sometimes wearied the court with the tedious and elaborate discussion of matters altogether of subordinate importance, scarcely deserving to be passingly alluded to. I remember that when on one occasion the Supreme Court decided a case in his favor which had been for many years pending, and in which a considerable amount was involved, Judge Winchester complained most vehemently, not of the *result*, of course, but of the reasons given by their honors for the conclusion at which their minds had arrived.

Judge Winchester never married, and had many of the eccentricities commonly attributed to protracted celibacy in either sex; but a more honest, benevolent, and patriotic man has perhaps never lived.

To the State of Kentucky Richard H. Webber owed his birth. His professional career was commenced in what was known as the Piney-woods portion of the State of Mississippi. His figure was ungainly; his manners were marked with awkwardness to a degree very uncommon, and almost ludicrous; in his dress he was not only untasteful but even slovenly. His heart was full of kindness and his animal spirits were exuberant. He was passionately fond of conversation, and delighted much in forensic argument. He was deeply read in his profession, but had scarcely read anything else. He never attempted eloquence. A more astute and logical mind than he possessed is difficult to be conceived of, and I have heard arguments from his lips that would have done no discredit to any lawyer living or dead. His genial temper very often involved him in excesses which it was painful to witness; but I never knew his bright and active intellect entirely overwhelmed.

by that direst of all enemies to intellectual pre-eminence—*Alcohol*. I recollect on one occasion the occurrence of an amusing scene between Colonel Webber and one of his brother attorneys, which may be regarded as more or less illustrative of *character*. Webber had been imbibing very freely; when an important case of his was called, which stood on demurrer. The opposing attorney was in a similarly awkward fix; and the latter labored under an additional disqualification of which he was profoundly conscious: unlike Webber, whose mind was capable of resisting the ravages of liquor upon his intellectual faculties, this unfortunate gentleman when in liquor uniformly lost his mental equipoise and was rendered utterly unfit for everything like logical digladiation. He, therefore, rose and asked of the court, in tremulous accents and with most forlorn expression of countenance, that the case just called might be passed by for the present, he being exceedingly indisposed. Webber well understanding the shrewd policy of the adversary, and eager to bring on the contest without delay, rose and addressed his honor somewhat in the following manner: "May it please the court: I really regret to learn that my worthy brother is indisposed, and I should not insist upon arguing this case at the present moment, but for the fact that I am suffering from indisposition also of the self-same kind, and do not know when I shall get better; so that as the gentleman and myself are in precisely the same *fix*, and both of us chance to be now in court—as it is possible we may not be on any future occasion when the case shall be again called—I should prefer going on with the argument at once." His Honor, fully appreciating the state of affairs between these two distinguished attorneys, and quite relishing the joke, decided to hear them at once. It is almost needless to say that Webber won an easy victory, at least so far as the argument was concerned. What was the final decision of the court though upon the question involved, I did not learn.

John W. C. Watson was born in Virginia, and had established a high reputation there as a lawyer before his removal to the State of Mississippi. On locating at Holly Springs, in the northern part of the state, he very soon secured that rank at

the bar which he has ever since continued to hold. He is undoubtedly one of the best informed attorneys that ever left Virginia for the great West, is a smooth and graceful speaker, clear, animated and forcible. He has been long renowned for his professional industry, his pure and unbending integrity, and his exemption from all the fashionable immoralities of the age. A purer *exemplar* of all that is becoming and honorable in the forensic character, no portion of our country has ever presented to the view of mankind.

With the celebrated Roger Barton, who, for more than twenty years, sustained an almost unequalled reputation in the courts of Mississippi as an advocate in criminal causes, I enjoyed a familiar acquaintance as early as the year 1829. He was undoubtedly both a brilliant and a forcible speaker, and as a judicious and adroit manager of that class of causes to which he principally devoted himself, has left behind him a reputation such as few attorneys have been able to acquire. He was just about removing to the State of California, (as I chance to know from a letter of his addressed to myself) when he suddenly departed this life, to the deep regret of his numerous friends and admirers. Mr. Barton was born in East Tennessee, and is reported to have been quite a near relative of the famous Missouri senator of the same name, the colleague of Mr. Benton, and so familiarly known twenty years ago, as the "*Little Red*." This last-named gentleman was one of the most vivacious, witty, bitterly sarcastic, and glowingly eloquent speakers that the Mississippi Valley has ever sent to the council-hall of the nation.

Next to Roger Barton, I suppose that General Reuben Davis may be recognized as the most successful defender of criminals in the northern counties of Mississippi; but as this gentleman is yet living and actively concerned in practice, it may be prudent for me not to expatiate here either upon his professional achievements or his many well-known virtues in domestic and social life.

Some time between 1838 and 1840, if my memory serves me faithfully, Luke Lea, Esq., made his first appearance at

the Mississippi bar. This gentleman brought with him from Nashville, Tennessee, a high reputation for general intelligence and amiability of manners. He was found to improve much upon acquaintance, and soon attained a most respectable standing at the bar, and a most remarkable personal popularity. I am rejoiced to learn that he is still living and prosperous, and that he has so demeaned himself for the last ten or fifteen years, under the trying circumstances which have surrounded him, as to command the respect and kindly regard of all with whom he has been brought into contact.

I conclude what I have to say at present upon the Bench and Bar of Mississippi of former days with a few remarks upon a gentleman now occupying an important and responsible position in public life, and of whom much has been said of late, in various forms, both in commendation and in decial. L. Q. C. Lamar was born in the State of Georgia, and is one of a family connection there well known as alike respectable and influential. Mr. Lamar has had much more experience in connection with public affairs than most men of his years and wheresoever he has appeared he has been able to command general respect and to win his way to the confidence and esteem even of his political adversaries. He is undoubtedly a man of unswerving integrity and unblemished honor, and presents a most happy blending of high-bred courtesy and manly energy and independence. His literary and scientific attainments are of a very high order; he is both a graceful and forcible speaker, and among the best informed politicians of the age. His present position in Congress is one of great and peculiar responsibility, and it will require all his acknowledged abilities and tact to equal the expectations of those who are now acting under his leadership. His knowledge of law is unquestionable, and his reputation as a forensic advocate is equal to that which he enjoys as a popular orator. The South contains no man at present, who, upon the whole, can be pronounced superior to the subject of this notice, in all the qualities which ensure capacity for public usefulness and lasting renown. Thus much have I felt justified

in saying in reference to a gentleman with whom I have been at no time in full political accord upon the many grave public questions which have risen for solution in the last twenty-five years; but for whose manliness, affability, and unbending sense of justice I have ever cherished a profound regard.

CHAPTER VI.

Early History of Tennessee.—Civil Troubles.—General Remarks upon the Origin of Society and Government.—Quotation from Cicero.—Knoxville Bar.—Hugh L. White.—Andrew Jackson.—Judge White's Death, and Public Notices thereof.—Judge Reese.—William C. Preston.—John Bell.—Judge White's Vindication of East Tennessee.—State of Franklin.—Humorous Anecdote—Andrew Jackson as a Lawyer and Judge.—John Overton.—John Haywood.—William L. Brown.—Henry Crabb.—Henry Crabb, Jr.; his tragic fate.

The judicial functionaries and the members of the bar who in former days were connected with the administration of justice in the great and populous State of Tennessee have received far less particular attention heretofore than I should be glad to bestow upon them. It is confidently believed that no other State west of the Alleghany mountains has supplied richer and more varied materials for historical notice of the kind referred to than the renowned commonwealth just named. It is scarcely necessary to premise, after what has been already several times mentioned elsewhere in regard to this matter, that in the cursory sketches which I am about to present, many personages famous in the days of yore, and of no little influence in the community of which they were actual and useful members, will receive no special mention, or be so briefly alluded to as to communicate but little knowledge to the reader of the scenes in which they acted, or of the virtues and abilities of which they gave evidence.

At the close of the great struggle for national independence, the centennial celebration of which is now so universally attracting the attention of our countrymen, as well as of the public-spirited inhabitants of other lands, the beautiful and romantic region bordering on the State of North Carolina, and now known as East Tennessee, was very sparsely settled by members of the Caucasian race. Most of these early pioneers were men of a singularly bold and enterprising character, not a few of whom had been distinguished as soldiers or officers in the Revolutionary contest, as well as in multiplied conflicts

with the fierce Indian tribes who yet dwelt in their vicinage, and who were constantly annoying them with hostile incursions in all the forms known to savage warfare. Under such circumstances as these it would have been indeed surprising had not these brave and hardy adventurers been inclined far more to rely upon their own courage and vigor for protection and safety, than on the tardy and spiritless aid which the government of North Carolina seems in the beginning to have afforded them. The principles of law and order were but little known in these remote and rarely visited localities, and tradition asserts many instances of social collision and strife to have occurred, such as in older and more perfectly regulated communities are seldom if ever known. The scenes of severe suffering and peril through which it was the fortune of these primeval colonists to pass have been long since chronicled by historians whose thrilling and graphic narratives will be found, by such as are at all curious about such matters, to have more than the charms of romance. Well might be applied to some of these dwellers in the mountain fastnesses and secluded valleys of East Tennessee, at this period, the language of the renowned Roman orator, who, on a very memorable occasion, is known to have said in hearing of a Roman court: "For who of you, O judges, is ignorant that the nature of things has been such, that at one time men, before there was any natural or civil law fully laid down, wandering in a straggling and disorderly manner over the country, had just that property which they could either appropriate or hold by their own personal strength or vigor, by means of war or bloodshed? Those men, therefore, who showed themselves to be most eminent for virtue and wisdom having considered men's aptitude for instruction and their natural disposition and faculties, collected gradually into one place those who were previously scattered abroad, and brought them over from their previous lawless and irregular way of life, to justice and mildness of manners. Then came those constitutions, devised for the utility of man, which we call commonwealths; then came collections of men, which were subsequently called states; then men surrounded with walls sets of houses

joined together, which we now call cities; and divine and human laws began to be recognized. And there is no point (he continues) in which there is so much difference between this manner of life, polished by civilization, and that savage one, as in the fact of *law* being the ruling principle in the one and *violence* in the other. If we do not choose to be guided by the one, we must adopt the other. Do we wish violence to be put an end to? Law must inevitably prevail; that is to say, courts of justice must; for in them all law and justice are comprehended. Do we disapprove of courts of justice, or are they destroyed or suspended? In a moment violence must be supreme."

Though the singularly healthful and attractive region concerning which I have been just speaking, was, at the early period referred to, lamentably deficient in most of those facilities for high moral culture, as well as of those invaluable educational advantages which the greater portion of our country is known to possess at the present moment, yet there were even then to be found among the hardy settlers here located, not a few individuals, who were destined, in the fulness of time, to achieve great and solid renown as wise and beneficent legislators, as distinguished warriors, as brilliant and effective forensic advocates, as erudite and useful judges, or as active and influential political leaders. It was in the year 1796, that one of these made his first appearance at the Knoxville bar, as a candidate for professional fame, whose name has since been honorably associated with many of the most memorable events of American history. I allude to the late Hugh Lawson White. This personage is known to have received but an imperfect education—never to have at any time entered any college or academy as a pupil, and to have been indebted chiefly, if not entirely, to his own laudable ambition for knowledge and the assiduity which he employed for its acquisition, for the large attainments which he eventually made in almost every kind of learning which could give vigor and expansion to his native faculties, and fit him for the distinguished part which he was destined to act in association with many of the most eminent public men that the country has

ever produced. He succeeded almost at once in acquiring prominence as a practitioner of law, and as early as his twenty-eighth year was called to preside in the Superior Court of the State, at that time the highest judicial tribunal of Tennessee. In this position he officiated with great credit for six years. In January 1810, he became one of the judges of what was known as the Court of Errors and Appeals, in which capacity he served with a constantly increasing reputation; after which he was tendered a membership of what was called the Spanish Commission, and in that high and responsible position became most favorably known to the whole Republic. At the termination of his duties as Commissioner he was unanimously elected by the Legislature of Tennessee to a seat upon the bench of the Court of Errors and Appeals, which office he promptly declined, preferring to resume the practice of his profession. Judge White had repeatedly served in the State Legislature, where he had always acted a leading part, previous to his being elected, in the year 1825, to a seat in the National Senate for the unexpired term in that body, which had become vacant by the resignation of his commission as senator by General Andrew Jackson. In this dignified position he continued to officiate uninterruptedly for the space of fifteen years. In the month of January, 1840, he resigned his place in this body, in consequence of his having received instructions from the Legislature of Tennessee to support the celebrated sub-treasury bill, to the adoption of which he was well known to be most strenuously opposed. The concluding words of his letter of resignation were as follows :

"I was called to the service of my state, fifteen years ago, without any solicitation on my part. With reluctance I accepted the high station I now occupy. I have been continued in it, perhaps, too long for the interest of the country. I have been thrice elected by the unanimous vote of your predecessors. My services have been rendered in terms of high party excitement—sometimes threatening to *burst asunder the bonds of the Union*—and your resolutions contain the *high compliment* that bitter political opponents can find *only a solitary*

vote, worthy in their judgment, of unqualified condemnation.

"I hope it will be in your power to select a successor who can bring into the service of the state more talents—I feel a proud consciousness that more purity of intention, or more unremitting industry, *he never can.*

"For the sake of place I will never cringe to power. You have instructed me to do those things which, entertaining the opinions I do, I fear I would not be *forgiven for, either in this world or the next,* and, practising upon the creed I have long professed, I hereby tender to you my resignation of the trust confided to me, as one of the Senators of the State of Tennessee to the Congress of the United States.

"Allow me to add my sincere prayer that the Governor of the Universe may so overrule our dissensions as to secure the liberty and promote the prosperity of our common constituents."

Thus closed the public career of one of the most meritorious personages that the State of Tennessee has ever held within her confines; a man who, alike in domestic and social life, was an exemplar of moral purity and disinterested patriotism; honest, sincere, scrupulously truthful, pure-minded and resolute in the performance of duty; of a lofty and independent spirit; an inflexible devotee to the principles which he had in early life espoused and to which he ever adhered, regardless of the fascinations of place, the insidious persuasives of professing friends, or the menaces of party proscription; unjust to no man; affable and courteous towards all with whom he had intercourse; not easy to take offence, but, if wronged or insulted, quick to resent, and persevering in his efforts to bring the aggressor to a proper sense of his own injustice; yet placable and forgiving upon a proper show of atonement, and ever ready to make a charitable allowance for the weaknesses, petty aberrations, or honest mistakes of others. Few men have ever lived who possessed a mind more acute and vigorous; a judgment more unerring, both as to men and the affairs in which they have to deal; a quicker and more profound prescience of the future, or a more unerring divination of the motives which ordinarily influence men in public

station. His style of composition was not unlike that of Chief Justice Marshall—plain, direct, forcible; free from everything like tawdry rhetorical ornament, and fastening his own convictions upon the minds of other men with a logic which nothing could resist, and with a mild but earnest persuasiveness which rendered it delightful to agree with him, and painful to dissent from one so unassuming, so gifted, and so wise. His industry when engaged in the performance of judicial functions was most unremitting; though there was nothing in him of that blustering and ostentatious activity and self-importance sometimes displaying itself so disgustingly upon the bench; his demeanor in the sanctuary of justice was always marked with serenity, with patience, and with a vigilance which knew no relaxation; and the decisions which he from time to time rendered in cases of the most difficult and exciting character were uniformly such as gave the most complete satisfaction both to the bar and the country. Law, as a science, he had fully explored; his mind was a storehouse of well-digested juridical principles; and he had conceived in his early life, and cherished to the day of his death, a high and elevated sense of the dignity of the legal profession. As a constitutional lawyer it is doubtful whether the Republic has ever produced Judge White's superior, and some of his most elaborate speeches in the National Senate upon important questions of finance are perhaps as valuable specimens of politico-economical discussion as can anywhere be found. It cannot be said that Judge White was endowed with a brilliant and fervid imagination; he had no claim to be recognized as a man of sparkling wit; and he very rarely indulged in mere humorous allusion; but, on several well-known occasions, whilst he was a member of the Senate of the United States, he displayed not a little power in the department of satire, and, on the spur of the occasion, when under the influence of special irritation, spoke in a tone of caustic and withering severity which was not the less effective perhaps by reason of its being so little in unison with his accustomed manner of speaking in this dignified and illustrious body. Could Judge White's proud and independent nature have permitted him to

submit, with a tameness and servility now so common, to the exacting and heartless rules of party *discipline*, it is not to be doubted that it was in his power to have reached the Presidential station; and no unprejudiced man will be now inclined to deny, in view of much that has been occurring during the last forty years, that his advent to power in the year 1837 might have been attended with many beneficial results, and have saved the men of this generation from the experience of evils the magnitude and detrimental influence of which could scarcely be overestimated.

As a forensic advocate Judge White was distinguished as much as any lawyer of his time, by his modest and unassuming manner, his freedom from all affectation and parade, the simplicity and aptness of his illustrations, and his marvellous powers of condensation. Cicero has told us, in his "Orator," that the "eloquent speaker" is a man who speaks in the forum and in civil causes in such a manner as to *prove*, to *delight*, and to *persuade*." This seems to me as precise and accurate a description of Judge White as could well be drawn; and his honor, Judge Reese, upon the occasion of his decease in 1840, thus expressed himself from the bench of the Supreme Court, where he was then worthily presiding, in response to certain complimentary resolutions just adopted by the bar of Tennessee:

'We receive with the liveliest sensibility and profound regret the melancholy intelligence that one so long and so eminently distinguished, as a member of our profession and as a judge of this court, is no longer to be numbered among the living. The individual upon whom has devolved the duty of responding to the request of the gentlemen of the bar, has known the deceased intimately for the last twenty years. The traits of his character were strongly marked. His intellect was unusually active, acute, clear and vigorous. He had great firmness of purpose and energy of will, and if his temper was ardent and his emotions sometimes intense he had a prudence, discretion and fairness which directed his efforts to right ends by right means. His professional career commenced about the time that this State became a member of

the Union, and he rose at once to honorable distinction. Although his preparation, scholastic and professional, as might be expected from the character of the country and the times, was rather accurate and useful than extensive, still, such were the endowments of his mind and the strength of his character, that for forty-five years, and to the last, he kept up with the improvements of society and the developments of our institutions, and never lost that position in the very front rank of his profession with which he set out. As a lawyer, he was ever at his post and always prepared. As a speaker at the bar, he was animated, argumentative, and eminently impressive; force and perspicuity were his striking attributes. As a judge, he was courteous, dignified, impartial and able. This elevated station he reached at an early age, and he largely contributed by the purity of his personal character and the energy, wisdom and justice of his official actions, to impress upon a new community that respect for, and submission to, an enlightened administration of the law, which has at all times and under all circumstances since so honorably distinguished them."

When the news of Judge White's decease reached Washington, the customary motion in honor of the illustrious ex-Senator was introduced in the body of which he had been so long a respected member, and Mr. Preston of South Carolina expressed himself in the following glowing and generous terms:

"I do not know, Mr. President, whether I am entitled to the honor I am about to assume in seconding the resolutions which have just been offered by the senator from Tennessee, in honor of his late predecessor; and yet, sir, I am not aware that any one present is more entitled to this melancholy honor, if it belongs to long acquaintance, to sincere admiration, and to intimate intercourse. If these circumstances do not entitle me to speak, I am sure every senator will feel, in the emotions which swell his own bosom, an apology for desiring to relieve my own, by bearing testimony to the virtues and talents, the long services and great usefulness of Judge White.

“My infancy and youth were spent in a region contiguous to the sphere of his earlier fame and usefulness. As long as I can remember anything, I remember the deep confidence he had inspired as a wise and upright judge, in which station no man ever enjoyed a purer reputation, or established a more implicit reliance in his abilities and honesty. There was an antique sternness and justness in his character. By a general consent he was called Cato. Subsequently, at a period of our public affairs very analogous to the present, he occupied a position which placed him at the head of the financial institutions of East Tennessee. He sustained them by his individual character. From this more limited sphere of usefulness and reputation, he was first brought to this more conspicuous stage as the member of an important commission on the Spanish treaty, in which he was associated with Mr. Tazewell and Mr. King. His learning, his ability, his firmness and industry, immediately extended the sphere of his reputation to the boundaries of the country. Upon the completion of that duty, he came into the Senate. Of his career here I need not speak. His grave and venerable countenance is even now before us—that air of patient attention, of grave deliberation, of unrelaxed firmness. There his position was of the highest—beloved, respected, honored; always in his place—always prepared for the business in hand—always bringing to it the treasured reflections of a sedate and vigorous understanding. Over one department of our deliberations he exercised a very peculiar control. In the management of our complex and difficult relations with the Indians, we all deferred to him, and to this he addressed himself with unsparing labor, and with a wisdom, a patient benevolence, that justified and vindicated the confidence of the Senate.”

To the late John Bell—a gentleman who is known to have been most intimately associated with Judge White for many years—the public is indebted for the following characteristic anecdote which is to be found in the deeply interesting speech delivered by Mr. Bell in Washington City, in hearing of a very large assemblage of citizens met to render appropriate honors to the more than Roman patriot and statesman whose decease had then recently occurred.

"It may not be generally known," said Mr. Bell, "that this venerable patriot was, late in life, destined to the affliction of beholding the objects of his early paternal care, the pride and hope of his affections, fall, 'stricken by the insatiate archer,' one by one, in succession, until two only of a loved and cherished group of ten remained; and, what seemed yet a harder and more relentless fate, all these sank into the tomb at full maturity—his sons in the vigor of manhood, and giving high promise of all their father was—the more tender and lovely members of his family in the full bloom of youthful beauty,—yet so stern was the sense of public duty, which always governed this eminent citizen, that, at its bidding, I have known him to allow himself but a single hour in which to weep the early doom of still another 'daughter dear.'

"By a singular and unfortunate coincidence, a measure of great importance in the Senate of which he had charge, and which he alone, from his intimate acquaintance with the subject, was able to explain and enforce, was set for the very day on which he received the melancholy tidings of this new bereavement. The measure was urgent, and admitted no postponement. One moment I saw him with his heart wrung by inexpressible anguish—the next, he appeared to the Senate, composed and resolute, and a moment afterwards he entered upon one of the ablest and most effective speeches ever delivered in that body."

Who, on reading this touching narrative, can fail to be reminded of a similar instance in Roman annals in conjunction with that renowned conqueror of Macedonia who is reported, when visited with the severest domestic calamities of a like description, to have calmly led up his triumph along the streets of the Eternal City as if fortune had done naught to fill his bosom with paternal anguish, or to remind him of the transitory character of all human glory?

Having in the beginning of this sketch had occasion to refer to the excited and tempestuous state of society in East Tennessee, for several years anterior to the admission into the Federal Union of the august state of which it forms a part, I have judged it expedient, before closing what I have to say of

Judge White, to adduce here what fell from his own lips touching the civic troubles of which he had been himself a witness in the days of his raw and inexperienced manhood; Mr. Webster having alluded in a somewhat ludicrous manner to some of the circumstances connected with the memorable attempt, in the closing years of the last century, to establish the state of "*Franklin*," Judge White said in response: "But, sir, these old proceedings more clearly developed the true character of my state than almost anything of the present day.

"The territory or tract of country called '*Franklin*' was composed of four counties of North Carolina, and separated from the body of the state by the great ledge of mountains, called at different places by different names, and from what is now West Tennessee by the Cumberland mountains and a wilderness of two hundred miles.

"The revolutionary war had terminated with Great Britain in 1783, but it continued with the powerful tribes of Indians who had been in alliance with her. The depredations of these Indians were so serious that aid to arrest their ravages was desired from North Carolina; that state was not in a situation to furnish protection, and, instead thereof, from good motives, no doubt, but without due consideration, passed an act ceding us to the United States. When the news was received, the leading men, who were "*King's Mountain*" men,—Sevier, the companion of the gallant Campbell and Shelby, at their head, took fire; the discontent ended in a Declaration of Independence, and the formation of the State called, to perpetuate our *Whig principles*, '*Franklin*.'

"North Carolina discovered her error, and, before Congress could act on the subject, repealed her act of cession. But it was *too late*. We had been disposed of without our consent. Though but a handful, with a powerful savage enemy infesting our whole frontier, and without a dollar to begin with, we set up for ourselves. We would not brook the indignity; we had begun the fight for liberty, and liberty or death we would have. We continued the controversy till 1789, when an accommodation with our present state took place, and with our

own consent, and with terms thought just, we, with other portions of territory, were ceded, in 1789, to the United States."

A curious anecdote related by Judge White in the same speech, illustrates very happily the primeval condition of the people of the region referred to ninety years ago. He says: "It will be remembered that the governor, chief justice, and several other officers, were to be paid in deerskins; other inferior officers were to be paid in raccoon skins. * * *

"We thought that these taxes might safely remain in the hands of the collectors, as *sub-treasuries*, until wanted for disbursement. The taxes were therefore fairly collected in the skins and peltry pointed out by law. But the collectors, as report says, knew that though raccoon skins were plenty, opossum skins were more so, and that they could be procured for little or nothing. They, therefore, procured the requisite quantity of opossum skins, paid them into the general or principal treasury, and sold the raccoon skins to the hatters."

It was at this early period that an acquaintance was formed and a cordial friendship established between Judge White and General Andrew Jackson; which friendship, after existing without diminution or distrust on either side, for a full half century, was lamentably severed by political differences about the year 1836. Since the notable separation of Mr. Burke and Mr. Fox upon the questions growing out of the French Revolution, a more remarkable breach of amicable relations has not occurred between two men alike distinguished for intellectual power, integrity of soul, and unquestionable patriotism. It is not necessary to expatiate here upon the career of General Jackson as a member of the bar of Tennessee and one of her earliest judicial functionaries. None of the opinions delivered by him as a judge have been preserved for the inspection of the present generation. In the course of my rambles through Tennessee I have encountered a few of those who knew him as an active and successful practitioner of the law both in East and in Middle Tennessee, all of whom spoke of him in most favorable terms. No one can doubt that had this remarkable man devoted himself with such unremitting diligence to the study of his chosen profession, as is known

to be indispensable to the acquisition of deep and varied legal learning, he might easily have attained a very high rank both as an advocate and judge. His mind was one of almost unsurpassed activity and vigor; he expressed himself in conversation with a fluency and impressive brilliancy, to which there was nothing wanting except, perhaps, a more polished and scholastic phraseology, a more extensive knowledge of books, and a slight diminution of that fiery and dashing impulsiveness which occasionally involved him, in early life, in an overhasty avowal of impressions which had not yet solidified into *opinions*, and into the precipitate denunciation of those whom he chanced to recognize as occupying a position of semi-antagonism to himself and his chosen friends. Though he is known to have been emphatically of a combative disposition and to have had numerous personal collisions, at different periods of his career, with persons endowed with a temperament little less inflammable than his own,—yet it is a well ascertained fact that at the bar he was uniformly courteous and obliging, and on the bench, calm, patient, painstaking, and decorous. No man, perhaps, ever cherished a more profound sense of the intrinsic dignity of the tribunals established for the administration of justice, and of the reverence due to recognized civil authority than the eminent personage to whom I am now referring. In support of this affirmation it is almost needless to allude to that well-known transaction connected with New Orleans just fifty years ago; when he *voluntarily* paid out of his own pocket, the amount of a thousand dollars, in obedience to a manifestly unjust and tyrannical judicial *fiat*, though then at the head of an army of irresistible force; which sum, as is well known to all, some twenty years after it had been thus levied, the Congress of the Union, upon the fullest discussion of all the facts of the case, caused to be returned to him after his retirement to private life, and only a short period antecedent to his decease. In this connection, I should not omit to mention another incident, the occurrence of which is as certain as any other historic event which can be mentioned, but which, so far as I am informed, has no parallel in judicial annals. I allude now to

the fact of his having on one occasion, when holding court in a certain locality of East Tennessee—on learning that a lawless individual, by the name of Beane—then charged with the commission of a serious criminal offence—was boldly setting the authority of the law at defiance and refusing to be apprehended—ordered the sheriff to summon *him* (the judge of the court) to act in aid of the law; which having been done accordingly, he walked, coolly and fearlessly up to Beane, who was armed to the teeth, took him in charge, and delivered him over to his own court for trial. It may be allowed to me to notice here another occurrence of a somewhat similar character, which I have never yet seen in print, but for which I can personally vouch. After General Jackson had been defeated as a Presidential candidate in 1824-5, and had resigned his seat in the Senate, he paid a visit to a farm then owned by him near the town of Tuscumbia, in North Alabama. Passing through Tuscumbia, he met the overseer to whose care that farm had been entrusted. A dialogue occurred between them, in which the overseer presuming upon his superior youth and vigor, applied to his venerable employer the most disrespectful and insulting language; upon the utterance of which General Jackson proceeded to subject the offender to a genteel and exemplary *caning*, in presence of many persons and to the gratification of all of them. Tuscumbia was then a small village, but there was a resident in it, a justice of the peace, for many years well known to me, by the name of Parham. He made out a warrant against General Jackson, and placed it in the hands of a constable, directing him to summon without delay this “hero of two wars,” to his own majestic presence; who at once appeared, apologized most respectfully for the violation of law which he had committed, and announced his willingness to pay any fine which might be assessed against him. He was ordered to pay ten dollars, which he did, and was discharged from further attendance upon the court.

It is now an ascertained fact that General Jackson was born in North Carolina, and not in South Carolina, as for many years was supposed to be the case. He read law and ob-

tained license to practice, before emigrating from his native State. For about six years he exercised the functions of a judge of the Superior Court of Tennessee, from the autumn of 1798 to the month of June, 1804. Without going into his merits and demerits (if demerits there were) as a great and successful party leader, I may be permitted to observe that to his profound sagacity, his indomitable firmness, and his truly national spirit, the country is mainly indebted for the prevention of that fratricidal war which at one time, during his administration as President, was so seriously menaced. Had he been so unfortunate (as one of his successors is known to have been) in adopting the absurd and puerile notion that the Federal Government has been given no adequate power of defending itself against insurrectionary violence, or to coerce into obedience to its authority all who shall undertake either to obstruct or to resist it in arms the abundant blessings which we now enjoy as a *united* people, and which are held in reserve for our posterity, of all future generations, would in all probability have long ago passed away, and given place to all the evils which wait upon civil violence, anarchy, and despotic rule.

A long and uninterrupted friendship is reported to have existed between General Jackson and the late John Overton, his successor upon the bench of the Superior Court in the year 1804. These two gentlemen were co-practitioners of law in the city of Nashville for some years, and participated in many pleasant and romantic scenes connected with the early history of Middle Tennessee. The high character borne by Judge Overton for truth and honor enabled him to be exceedingly useful, during that trying and eventful period in the life of General Jackson which intervened between the years 1824 and 1828, in the vindication of the character of the then Democratic candidate for the Presidency against many plausible but unfounded rumors to which partisan malevolence had given a wide and injurious currency, but which the manly and comprehensive explanations given by Judge Overton, over his own signature, put at rest forever. Accusations involving personal character, purporting to be founded upon

facts which had occurred a quarter of a century before, in a new and sparsely settled vicinage, would never perhaps have been effectually counteracted save by just such testimony as Judge Overton was happily able to supply. Judge Overton lived to see his beloved and honored friend elevated to the Presidency of the Republic, and is known to have warmly sympathized with him in the excited and tempestuous scenes of political turmoil and contention through which it was his fortune to pass. For many years he enjoyed a large practice as an attorney, and during the protracted period of his service upon the bench, delivered many able and luminous opinions which are yet held in high respect in the courts of Tennessee and the adjoining states—opinions bearing conclusive evidence of deep legal learning, of unsurpassed labor and research, and of a vigorous and elastic intellect. Judge Overton's knowledge of the common law was such as few of his contemporaries had succeeded in acquiring, and his mind seemed to be singularly adapted to the disentangling of complex questions of mixed law and fact, and to the attainment of sure and satisfactory conclusions by processes which owed their effectiveness far more to the exercise of a solid and penetrating common sense than to the often misapplied rules of a subtle and artificial logic. His industry and impartiality in the discharge of his official duties entitle him to special respect and veneration, and his exemplary conduct in private life, surrounded him whilst living with numerous sympathizing friends, a few of whom are yet surviving, and who are heard occasionally to allude to him in terms of affectionate respect and undiminished admiration and gratitude. It may be worthy of passing mention that Judge Overton was more than usually successful in the acquisition of wealth, now so much overvalued by large numbers of our countrymen. The estate which he accumulated and left to his descendants, if now held by a single possessor, would make him one of the largest capitalists in the Republic.

John Haywood, whose name occurs so often in the columns of reported decisions, both of North Carolina and Tennessee, removed from the former to the latter of these states

early in the present century, bringing with him a commanding reputation for legal learning and ability, which speedily opened the way to an extensive and lucrative practice at the bar, and his ultimate elevation to the bench as one of the judges of the highest appellate court of his adopted state. As an advocate Judge Haywood was earnest, impressive, and at times surpassingly eloquent. His native intellectual powers were unquestionably of a very high character, and the studious habits of many consecutive years had supplied him with vast stores of learning of almost every description that can be mentioned; which gave him an advantage difficult to be estimated over all ordinary competitors. His imagination was lively and vigorous, though always held under rigorous restraint; his capacity for reasoning, whether upon law or facts, was such as to cause his admirers often to compare him to Chief Justice Marshall; he never spoke without the fullest preparation, and, though sometimes supposed to be a little diffuse in his style, was never incoherent, never feeble and trivial, never tedious or inconsequential. His was the diffusiveness of a rich lump of pure gold—heated to liquidation by the intense heat of the furnace, and ready to spread itself abroad upon all objects with which it might come in contact. Never could court or jury listen to him save with the most interested and unremitted attention. He was of commanding stature, of a most manly and pleasing expression of countenance, and possessed a voice at once clear, penetrating and conciliatory. After passing the middle stage of life he became quite corpulent; but he retained both his physical and intellectual energies in full perfection up to the last moment of his brilliant and useful career. He was an eager seeker of knowledge of every useful kind, even after old age had crept upon him; and at a period of life when most men who have run a stirring and laborious career are inclined to sigh for repose, he was still drinking at the fountains of knowledge with unabated thirst, and writing volumes in which may be found bold and original views upon important questions of general science, ingenious geological and mineralogical suggestions, valuable compilations of facts

connected with the early history of Tennessee, and exceedingly striking and impressive remarks upon the Indian tribes then spread over the greater portion of the state, their origin, their wanderings, their usages, and their destiny.

I shall make no apology for introducing here a short extract from one of Judge Haywood's most admired judicial opinions, having reference to a highly interesting question of constitutional law, in which the peculiar characteristics of his mind are very strikingly presented to view. The Supreme Court, of which he was always a most conspicuous and influential member, had decided that it was in the power of Congress to vest the jurisdictional authority for the trial of certain cases involving the violation of the revenue laws, in the courts of the separate states, and had ruled also, that it would not be competent in such cases, for the defendant to allege in his own behalf, *a want of jurisdiction*. A motion was thereupon made for the suspension of the judgment of the court, until a succeeding term thereof, in order that further argument might then be had, and the advantage might be enjoyed of citing several decisions of the question in dispute said to have been rendered in the State of New York and in several other states, no certified copy of which had yet reached Tennessee. Upon this motion, Judge Haywood said:

"It is as much the duty of a judge to cause his judgment to be carried into effect when he has no reasonable doubt pressing on his mind, as it is to suspend it when he has, and I cannot say that my mind is affected with any reasonable doubt. If we ought to respect the opinions given by the judicatures of other states, as we undoubtedly ought, we ought also, and perhaps equally, to respect the opinions of those legislators who, from the time of the first Congress to the first decisions we are invited to reflect on, have viewed the judicial power of the Union, so far as regards citizens of different states, or the United States and a citizen, as concurrent with the judicial power of the states, except in those instances where Congress might render it exclusive. How many cases are left by the judicial law of 1789 to be decided by the state judiciaries? The causes which produced the judicial

power of the Union are such as did not require exclusion in all cases." * * * "As to the notion that our courts cannot execute the laws of another sovereignty, surely the laws of the United States, made by Congress upon subjects submitted to their government by the constitution, are as much our laws as those made by our own Legislature. Do we not make them ourselves? Do we not appoint the legislators and President? Are they not our representatives intrusted with the regulation and care of our interests, for the purpose of procuring the public welfare and prosperity? Are we not sworn to support them? Is it not our duty to obey and carry them into effect? Are we not bound in conscience, and as good citizens, to aid in the support of them? Whenever the time comes when the laws of the Union shall be disobeyed and looked upon as the laws of a foreign sovereignty, and when all our courts and judicial officers withdraw from them sustentation, then that anarchy, with its threatening aspect, will come again, which shortly preceded the formation of the present constitution. United by no common head, we shall pursue as many different courses as there are states, and be divided and separated into disunited portions, never to be again drawn together by sound principles, but only by the despotism of the sword. A judge has no right to be a politician; but when such are the consequences of a disregard of the laws of the Union, it is not improper to contemplate them, that thereby he may feel an invigorated desire to execute them."

He thus concludes:

"No man values more highly than I do the New York decisions.

"Why say that the grant of this judicial power is absolute and exclusive, when the cause and reason of it is not so, and when the words of the constitution do not require it so to be considered? Suppose no judicial power had been given to the Union; or a judicial power not extending to the penalties created by the laws of the United States; what then? Would not the state courts have carried the law into execution? And is this not precisely the state of things, when Congress, having

a power to order or not to order the courts of the Union to take cognizance, have omitted to do so, and have intentionally left this matter as it would stand without the interference of the federal constitution? Are not all the powers reserved to the states which are not expressly taken from them by the constitution? And is the power in question taken from them till Congress thinks proper to appropriate it exclusively to the courts of the Union? If I give you a power of attorney to sell my land, is it not mine till you have executed the power of selling? If I authorize you by a declaration of uses to be made by yourself to appropriate it exclusively to yourself, is it not mine till the declaration is made? Is not such portion of it as is not included in the declaration mine still? I will not speak of the consolidation which is talked of. The dread thereof is an illusion which exists in the imagination only. An appeal in any shape to the Supreme Court of the Union, in the few cases we are contemplating, in which the judicial power may not be exclusive, and is not so, will never lead, as an appeal in all cases and over all causes might, to an extinction of state sovereignties, and the consolidation of all the state powers into one great mass. I do greatly respect the General Court of Virginia; I see in that state the most illustrious characters, the ornaments of mankind, much to imitate, much to praise; but so far as they contradict the opinion now given, I must say, *Cato amicus, et. Plato amicus; sed major amicus veritas.*"

This opinion was delivered in the year 1816, nearly a half century ago; since which, to prevent this dreaded *consolidation*, a bloody civil war has been waged, and some of the evils so glowingly depicted by Judge Haywood have been painfully realized. *Consolidation* though is still apparently as remote as it was a half century ago. The reserved rights of the states and people are all yet as fully enjoyed as they were when the Federal Government was established; and constitutional freedom, in all its amplitude and blessedness, is still the distinguishing glory of those whose good fortune it is to inhabit the natal land of Washington and his immortal compeers.

Whilst Judge Haywood was yet a little beyond the prime

of lusty manhood, and in the enjoyment of a forensic and juridical renown, rarely, if ever, equalled in any part of the great Mississippi valley, a man who was his junior by many years, was fast rising to eminence as an advocate in a neighboring town, between whom and himself relations of a somewhat peculiar character were soon to spring into existence. I allude to the celebrated William L. Brown, whose career as a barrister was commenced, as I have heard, in what is now known as the City of Clarksville, in which place he continued to practice with much success until he concluded to secure to himself a somewhat wider sphere of action by locating in the City of Nashville. The personage now under review is reputed to have been a native of S. Carolina. Of his early education I have not been able to obtain any precise information. Nature had been exceedingly bounteous to him in regard to his intellectual gifts; and he evinced his grateful sense of her munificence by doing all in his power to increase the value of these gifts and to use them as the means of acquiring fame and fortune. He was a most persevering and untiring student of books. His knowledge of law was universally admitted to be such as few of his competitors had succeeded in acquiring. His scholastic attainments were respectable; his general reading not contemptible, and he possessed an extensive and accurate knowledge of the practical concerns of life, and of the ordinary motives of human action. A man of a more fervid and insatiable ambition has never lived, though the purity and elevation of his nature effectually withheld him from all those low and debasing arts by which a meretricious fame is so often acquired. A legitimate and honorable celebrity he sought for with all the earnestness of a zealous and hopeful temperament; he toiled for it with exhaustless assiduity; he meditated upon the means by which it was to be realized through many an anxious day and many a restless night. He seemed to have been born with an indomitable confidence in his own capacity for self-advancement, and his ultimate realization of a splendid destiny commensurate with his aspirations and indispensable to his earthly happiness. His moral courage almost amounted to audacity;

his persevering energy was without bounds; and there was no labor, however irksome or distasteful, from which he thought even for an instant of recoiling, provided it was needful to be encountered in order to reach the one grand object of his life. Such was his tenacity of purpose that no difficulties could seriously discourage him, no disappointments depress him, and not even the most splendid successes in the forum could induce him to relax his exertions, or withdraw his attention for an instant from that bright star of renown which was constantly sparkling before his vision. His energy verged upon combativeness; and he was sometimes not over-patient in those contestations to which the accidents of professional life necessarily exposed him. He is more than suspected of having taken little pleasure in the increasing fame of those whom he was compelled to meet as rivals for pre-eminence. Judge Brown had but little claim to be recognized as an orator of the highest grade; but he always spoke with earnestness, with more than ordinary facility of expression, and with a happy condensation of argumentative force which rendered it a most difficult task to answer with effect his more studied and elaborate speeches at the bar. Mere flowers of rhetoric he utterly despised, and he could scarcely conceal the contempt which he felt for those who paraded them in court when questions of great practical importance were under discussion. Seldom, indeed, did he seek either for ornament or illustration outside of the large and well-selected library of law books to which he alone looked for inspiration and for victory. Seldom was it that he was not reading the volumes which composed that library, except when engaged in forensic argument, or in drafting some important professional paper. He gave but little time to mere social pursuits, and never visited scenes of festive mirth, or of mere holiday display. When he relaxed, as he did occasionally, among a few chosen friends, he was able to make himself not a little agreeable. Some of his arguments at the bar are yet remembered by many as master-pieces of their kind; and it is probable that he never spoke in court without being listened to with something more than respect by all to whom he ad-

dressed himself. During the short period that he occupied a seat upon the bench of the Supreme Court of the State, his reputation was constantly on the increase, and had he continued in that position he would probably have gone nigh to equalling in the splendor of his fame, many of those judicial magnates of our own and of other countries who have reached the loftiest heights of juridical eminence. But he continued on the bench only about two years; either not altogether relishing the duties which he had there to perform, and preferring thereto the animated and somewhat more imposing discussions of the forum, or, which seems to be a well ascertained fact, he was not content to occupy a place where the overshadowing influence of Judge Haywood's long established fame necessarily held him in a position of only *secondary* dignity. It has been even said by persons quite likely to be correctly informed in relation to this matter, that Judge Haywood's somewhat dogmatic and *ex cathedra* manner of enunciating his views, and the claim to *deference* on the part of his official colleagues which he sometimes very distinctly put forth, had proved not a little offensive to Judge Brown's professional pride, and that on this account he gladly returned to his old arena of the forum where he felt quite sure of being recognized, as of yore, *facile princeps*. His retirement from the bench was a general subject of regret among his fellow citizens, all classes of whom estimated most highly, his abilities, his industry, and his unblemished purity of character. Judge Brown did not live a great while after his return to the bar, but it may be safely asserted that the improved condition of his powers as an advocate, and the extension of his fame as a safe and able legal adviser only ceased with the termination of his mortal career. Tradition asserts that on the retirement of General Jackson from the United States Senate in 1826, Judge Brown, always one of his warmest admirers, was eagerly desirous of becoming his successor, and that the disappointment of his hopes in this particular tended seriously to becloud the evening of his days.

The late Judge Crabb was some years younger than the remarkable personage whose character and career have just

been passed in review. For a considerable period they were co-members of the Nashville bar, and appeared often in opposition to each other in cases of the greatest dignity and magnitude. A keen spirit of professional rivalry very soon sprang up between them, which, on one or two noted occasions, seemed likely to result in feelings of decided alienation if not of settled enmity; yet were both these gentlemen (so thoroughly contrasted to each other as they were in several material respects) universally recognized by the community in which they lived as persons of abundant kindness and generosity of temper, of manly and honorable sentiments, and of an inflexible regard for the rules of a refined and high-bred courtesy. Judge Brown and Judge Crabb were never very intimate friends, and indeed it was almost next to impossible—situated as they were—that they should become so. The former—as has already been hinted—was of a particularly inflammable temperament; not a little testy and impatient of opposition; occasionally somewhat dictatorial in his bearing; morbidly sensitive to anything like irony or suggested reproach, and prone to distrust the friendship and esteem of those who seriously called his cherished opinions in question, or who even failed to defer on occasions of special public importance to his own generally admitted intellectual superiority. Judge Crabb, on the other hand, was always calm and self-possessed; not at all pervious to ordinary assailment; seldom, if ever, giving way to feelings of anger or irritation; bland and civil in his ordinary demeanor, though occasionally a little cold and formal; gravely respectful, as a general thing, to those with whom he was thrown into professional antagonism, though sometimes apparently taking pleasure in stirring up the feelings of an over-excitableness adversary by cool sarcastic allusions and a kind of half-concealed raillery which seemed more or less distinctly to intimate that he was very far from feeling anything like a profound respect for the arguments to which he was responding, or the intellectual prowess with which it was his fortune to be contending. I have been told by an honored member of the bar of Nashville, only a few days since, of a curious and characteristic

scene between these two well-matched rivals, some account of which I shall here give. In a case of much importance, a certain statute of limitations, of which Judge Brown was the acknowledged author, came up for consideration. Judge Crabb made a most elaborate speech, in which he analyzed the several clauses of this statute, denounced the *policy* upon which they were founded, and denied both the justice and validity of the act. His argument on this occasion is supposed to have been one of the most skilful and masterly which ever emanated from him. The satiric power which he displayed, and the logical dexterity of which he showed himself to be master, might have reminded one of the far-famed *Provençal Letters* of Pascal. When Judge Crabb took his seat, exhibiting at the moment just as much sedateness and composure as had marked his opening words, Judge Brown, excited and indignant beyond measure, leaped to his feet, acknowledged himself to be the draughtsman and legislative propounder of the derided law, defended alike its phraseology and its purposes, and after a speech of far more than ordinary length, every sentence of which was marked with acrimony and wrathfulness, closed by a fierce and almost insulting challenge to his cool-headed and secretly exultant antagonist to meet him on some other occasion, whenever and wherever he might please, for the fuller discussion of this subject, pledging himself to make good every position which he had there assumed, to the satisfaction of any assemblage of any reasonable men in Christendom, and somewhat more than intimating that should such a conflict as he invited take place, the gentleman to whom he was replying would have abundant reason to lament the temerity which he had displayed in making this unjust assault upon his feelings. The only notice which Judge Crabb took of this furious harangue was to change his seat towards the close of it, and to whisper in the ear of the gentleman to whom I am indebted for this anecdote an inquiry whether he thought that "he (Judge Crabb) had said or done aught to justify so tempestuous an exhibition." I should add here that though Judge Crabb had been able, by dint of the severest self-training, to keep

the stronger passions of his nature under the control of his reason he was well known to be a man of the highest personal bravery; and there was at least one instance in his life when he felt it to be his duty to invite a gentleman of great celebrity to what has been called *the field of honor*.

Judge Henry Crabb died in the thirty-fourth year of his age, just when he had fairly commenced a career which, had it been his fortune to continue upon the public arena a few years longer, would perhaps have numbered him among the most renowned jurists and statesmen that our country has known.

Judge Crabb was elevated to the bench of the Supreme Court of Tennessee in the year 1827. He was then in a state of rapid physical decline, and died in less than two years thereafter. In looking over the judicial opinions delivered by him during this brief period, I have found two of them to which I feel inclined to invite special attention. The first of these was delivered in a case where the interesting question had to be determined, how far an attorney in the State of Tennessee was entitled to claim pecuniary remuneration for professional services rendered by him, upon the basis of a *quantum meruit*. The following short extracts from that opinion will I am sure be read with some interest:

"The defendant says that the complainant cannot recover, because the profession of the law is of an honorable character, and services rendered by its professors gratuitous. The law of England is certainly as contended for, both in relation to counsellors and physicians. But the law has not prevailed in this state in regard to either. It has been common here for professional men, as well as other persons who have labored for the benefit of their employers, to sue for and obtain what they reasonably should have for their services, in the opinion of an impartial jury. Such recoveries have been constantly had in the inferior courts, and their propriety has been sanctioned in this court in repeated instances." * * * "In the opinion of this court the law should be so; it is consonant with the nature of our institutions that faithful labors should be rewarded by reasonable remuneration; and he who

works at the bar, and he who works at the plane; the farrier, the carpenter, and the blacksmith, should all possess an equality of rights, and be paid what they reasonably deserve to have, according to the nature and value of their respective services.

"We have here no separate orders of society—none of those exclusive privileges which distinguish the lawyer of England, in order to attach him to the existing government, and which constitute him a sort of noble in the land—rising, by regular gradation, from an apprentice's humble seat in Westminster Hall, until he becomes a sergeant, and then is invited to a seat within the bar as king's counsel; after a little time he receives some sinecure appointment, or is placed on the bench for life, with a salary of many thousand pounds sterling; or is appointed solicitor-general to the king or queen, or attorney-general, or perchance attains to the highest professional honors, by taking his seat on the wool-sack; equal, whatever may have been his birth or origin, to the proudest peer he looks upon.

"None of these privileges are possessed by the advocates and attorneys of Tennessee. True, the latter may be promoted (if promotion it may be called) from a lucrative practice at the bar to a troublesome and unproductive, though honorable, seat on the bench.

"But, upon the whole, a lawyer in England is as different from a lawyer here as a man clad in a plain suit of black or blue—his head such as nature made it—is unlike him in appearance who has his body surrounded with a long robe and his head covered with a large wig.

"It cannot be seriously thought that the General Assembly intended the tax fee, which is directed to be included in the bill of costs in each suit, as the sole reward of professional exertion." * * *

"But it is contended that on the score of public policy such actions should be discountenanced, and the client be left to give, and the counsel to receive, whatever the liberality of the former may prompt him to offer, or the conscience of the latter may induce him to ask. On this point, it is believed

that the weight of argument is clearly on the part of the adjudications of Tennessee.

"Leave the doctrine as desired, and the happy moment will always be selected by the unconscientious when the anxious suitor is elevated by hope, or depressed by fear, to extort unreasonable advances in the shape of gratuities. But let it be known that industry and attention and ardor will be certainly compensated by reasonable payment, and you encourage forbearance on the part of the attorney or advocate. He is not tempted to get what he can, while the fever of his client is up, but waits in security until his labors are performed, his services rendered, knowing that he will at last receive what a disinterested jury shall award."

Perhaps the most elaborate opinion ever enunciated by Judge Crabb during the brief period that he occupied a seat upon the bench of the Supreme Court, was that delivered by him in the very interesting case of *Vaughn v. Phebe*, to be found in *Martin & Yerger's Reports*. This was a suit for freedom instituted by one claiming to be of Indian ancestry. The main question to be decided was whether the claim to freedom could be sustained by evidence of *general reputation*, as in ordinary cases of *pedigree*. The case was ably argued on either side, and a most copious citation of authorities, both English and American, seems to have been made. The whole discussion will be found deeply interesting, and the opinion of the court bears evidence of the most laborious scrutiny of decided cases, and of a sage discrimination among conflicting authorities worthy of the highest commendation. Want of space forbids the presentation of more than a very short extract; but this will suffice to show how felicitously Judge Crabb was capable of expressing himself in a case where great principles were involved. He says:

"How is an individual in this country, who is unfortunate enough to have a woolly head and a colored skin, to prove that he is free? Not being white, nor copper-colored, nor having strait hair and a prominent nose, the presumption probably is that he is a slave. Contrary to the general rule, he who is charged with having trespassed upon his person, pleads:

an affirmative plea, and yet need not prove it. He says, in justification of his trespass, that the plaintiff is a slave, and yet, on that plaintiff is devolved the *onus probandi* of showing himself to be a free man. How is he to show it? He may, perhaps, procure testimony that he or some ancestor was in possession of freedom; that he has acted as a free man; that he has been received as a free man in society; and very soon will he find himself under the necessity, increasing in proportion to the distance he has to travel into time past, for want of other evidence, to use hearsay, that he or his ancestor was commonly called a free man, or commonly reputed a free man; or, in other words, evidence of common reputation. And why should he not? Is it a concern of so little moment, that the law, in its benignity, ought to refuse it those aids for its support and protection, that have been so exuberantly extended in analogous cases? Is it of less importance than the right of digging stone upon the waste of the lord of a manor? Or the right of the lord to take coals from under the lands of those holding from him? Or a right to have a sheep-walk over a piece of land? Or to a *modus* by which six pence an acre should be paid in lieu of small tithes? These are a few out of many cases.

"But it is said that these rights, franchises, &c., which in England are permitted to be established by common reputation, are, or savor of, a *public* character; and therefore the public, where this reputation is to be formed, will be more apt to possess a knowledge of their existence, &c. We put it to the candid and enlightened, whether the right to freedom has not in this respect very much the advantage over many of those rights where such evidence is every day received in the English courts? Indeed, it is no light matter to be a freeman in these United States. Freedom in this country is not a mere name—a cheat with which the few gull the many. It is something substantial. It makes itself manifest by many privileges, immunities, external public acts. It is not confined in its operations to privacy, or to the domestic circle. It walks abroad in its operations—transfers its possessor, even if he be black, or mulatto, or copper-colored, from the kitchen

and the cotton-field to the court-house and the election ground; makes him talk of Magna Charta and the constitution; in some states renders him a politician, brings him acquainted with the leading citizens, busies him in the political canvass for office, takes him to the ballot-box; and above all, secures to him the enviable and inestimable trial by jury. Can it be said that there is nothing of a *public* nature in a right that thus, from its necessary operation, places a man in many respects on an equality with the richest, and greatest, and best in the land, and brings him into contact with the whole community? Can it be said that common reputation is no evidence of a right, producing so many effects relative in their character, to that very society where the common understanding, report, or reputation is required to exist? Can it be said that the community or neighborhood, as the case may be, the "*public*" around a man, will too readily give credence to a claim by which the individual who makes it obtains among themselves so high a comparative elevation? If those around him have interest or prejudice they will usually be against his claim. It is difficult to suppose a case where common reputation would concede to a man the right to freedom if his right were a groundless one. If such a case be imagined, it will most probably be an extreme one; and we must bear in mind that when the evidence we are speaking of is received, it is not regarded as conclusive. It is to be weighed, encountered, and compared with other evidence; and ultimately to have no more effect than, after a full examination, the jury shall be disposed to give it."

It is worthy of note that these views—so manly and liberal—were uttered by a slave-holding judge, in the bosom of a slave-holding community, nearly a half century ago, and long before the fierce agitations in behalf of *immediate abolition* had obtained the least influence in any populous section of the Republic.

When Judge Crabb departed this life, he had become the father of a single child—a fine boy, then in his infancy. With the latter I formed a personal acquaintance about the year 1847, in the City of Vicksburg, where he had just located for

the practice of the law. He evinced much intellectual promise, and would, doubtless, long ere this, have obtained much distinction at the bar, but for the occurrence of circumstances, which I should, perhaps, here briefly relate. The warmly contested Presidential struggle of 1848 was in progress, when it became my duty to address a large assemblage of the citizens of Vicksburg, in support of what was known as the Democratic ticket. Whilst this meeting was in progress, an accidental quarrel ensued between Henry A. Crabb, the young gentleman of whom I have been speaking, and a Mr. Jenkins, the editor of a Democratic newspaper then published in Vicksburg. This dispute resulted in a street fight between the parties to it, next day, in which Jenkins (a young man of great worth) was unfortunately killed. Crabb was afterwards tried upon a charge of murder, and was honorably acquitted.

A few years subsequent to this occurrence, I met young Crabb again, in the far-off State of California. Here he had been more or less successful as an attorney, had served repeatedly in the state legislature, and had become a man of high standing and extended influence. He was afterwards a prominent candidate for the United States Senate; was one of the Fillmore and Donelson electors of the State of California in 1865, and in the autumn of that year, led a gallant band of young Californians into the State of Sonora, upon an arrangement which he had previously concerted with certain Mexican chiefs, by the aid of whom he expected confidently to be able to effect a revolution against Mexican authority. This project was defeated alone by the treachery of his Mexican associates. Crabb and his party were betrayed into the hands of the local authorities in Sonora, and all of them were immediately put to death in a most insulting and barbarous manner. I saw Colonel Crabb a few days before he set out upon this ill-fated expedition, and hearing from his lips that he was then in his thirty-fourth year, I ventured to call his attention to the fact that his father had died at that precise period of life. I mention this merely as a curious co-incidence.

CHAPTER VII.

Judge Catron.—Felix Grundy.—Jenkin Whiteside.—Thomas H. Benton.—O. B. Hayes.—Sam. Houston.—Abram P. Maury.—Judge Turley.—Judge Reese and Judge Greene.—Judge Abram Caruthers.—Pleasant M. Miller.—George W. Campbell.—General Ewell.—Return J. Meigs.—Francis B. Fogg.—James K. Polk.—John Bell.—John Marshall.—Andrew J. Ewing.—Thomas Fletcher.—Thomas A. R. Nelson.—Balie Peyton.—Henry A. Wise.

Whilst Judge Crabb held the position which he so highly adorned, as one of the judges of the Supreme Court of Tennessee, he had been officially associated for a short period with the distinguished personage whose career will now be briefly noticed. John Catron is a name which will be long held in veneration by all American patriots, and by the admirers of intellect and learning. His birth was obscure; his early life was beset with many difficulties, and his ultimate rise to places of the highest civic trust and dignity reflects much credit upon our republican institutions. Judge Catron—with but a limited education, and without a single influential friend to aid or encourage his early efforts for professional success—located himself in the little village of Sparta. Here in a few years, he acquired much reputation for ability, accumulated enough to justify his removing to a more commercial locality, and (as I have heard from his own lips) by the advice of General Andrew Jackson became a resident of the City of Nashville. Here he quickly rose to eminence, and obtained, in a few years, a seat upon the bench of the Supreme Court of Tennessee; from which position he was elevated to the bench of the Supreme Court of the United States by the favor of General Jackson, only a day or two before he retired to private life.

I knew Judge Catron well. He was in some respects one of the most remarkable men I have ever met. His heart was warm and generous; his energy and firmness in the performance of public duty, were perhaps never surpassed; he was as simple-minded and as simple-mannered as a child; his

confidence in other men was such as often to involve him in difficulties and embarrassments; and there was scarcely any sacrifice which he did not stand willing to make in order to further the welfare of a friend, or to relieve the victims of misfortune. Among the members of the bar to whom he was best known, he stood very high as a common law lawyer; and in other departments of jurisprudential science he was not far behind the most learned of his compeers. His mind was acute and vigorous; his power of juridical analysis such as but few can boast; his capacity for labor most marvellous, and his desire to do justice and uphold established principle, such as will ever command for him the respect and gratitude of his countrymen. It must be admitted that this excellent functionary was never entirely able to supply the deficiencies of his early education, and that he was never fortunate enough to acquire a graceful and polished style as a writer. Most of his opinions whilst on the bench will ever be held as high authority, and not a few of them are replete with suggestions of a moral cast, and have reference to the suppression of social crime, which it would be well for legislators of the present generation, both in Tennessee and elsewhere, to read and ponder. The following extract from an opinion delivered by Judge Catron in a case of deep interest will enable the reader to estimate very accurately his peculiar style of expression in regard to matters deeply involving his feelings as a member of society and as a judicial conservator as well of the public morals as of the dignity of the bar:

Calvin M. Smith, an attorney, had accepted a challenge to fight a duel with Robert M. Brank, and the said duel had actually been afterwards fought in the State of Kentucky. Brank was slain, and Smith had been indicted in the State of Kentucky for murder. An information was filed against Smith upon the above facts, to which he demurred. The court in which these proceedings had occurred gave judgment against Smith and ordered that he should be stricken from the roll of attorneys. From this judgment Smith having prosecuted an appeal in the nature of a writ of error to the Supreme Court of Tennessee, after full argument Judge Catron thus expressed himself.

“Much inquiry has been made into the powers of the courts to remove attorneys; if the old statute H. 4, had been examined, that which has been searched for and found obscurely hinted at in so many authors, could have been found in a short paragraph; the statute first provides that all who are of good fame shall be put upon the roll, after examination of the justices at their discretion, and after having been sworn well and truly to *serve* in their offices; ‘And if any such attorney be hereafter *notoriously found* in any default, of record, or *otherwise*, he shall forswear the court, and never after be received to make any suit, in any court of the king. They that be good and virtuous, and of good fame, shall be received and sworn, at the discretion of the justices; and if they are notoriously in default, at discretion, may be removed upon evidence either of record, or not of record.’

“This statute has received the sanction of four centuries without alteration, and almost without addition; governing a profession more numerous and powerful, (when applied to counsel also, as in most of the United States) than any known to the history of the world, without complaint of its provisions, or abuse of power on the part of the court in its exercise, so far as the judicial history of England or America furnishes instances. It is remarkable that there is not a provision in any act of assembly of Tennessee upon the subject, but what is in strict affirmance of it, nor does a single provision go beyond it; our statutes require that the attorney shall be of good moral character, learned, and of capable mind. A loss of either of these is good ground for withdrawing the privilege conferred by the license.

“Suppose an attorney were to become insane, by the hand of providence, or by intemperance, he would be disqualified, and the license should be withdrawn; were he to become besotted or notoriously profligate, he would be neither virtuous nor of good fame, and should be stricken from the roll. An hundred instances might be cited, where attorneys, once qualified, might become disqualified, when the privilege should be taken from them. Who must perform this duty? The power which has conferred the appointment; that is, every court

where the attorney is permitted to practice, for they equally extend the privilege. The principle is almost universal in all governments, that the power which confers an office, has also the right to remove the officer, for good cause—the county court, constable, etc.; the senate, officers elected by the legislature and people; in all these cases the tribunal removing is of necessity the judge of the law and fact; to ascertain which, every species of evidence can be heard, legal in its character, according to common law rules, consistent with our constitution and laws. This court, the circuit court, or the county court, on a motion to strike an attorney from the rolls, has the same right, (growing out of a similar necessity) to examine evidence of the facts, that the Senate of the State has, when trying an impeachment. The authorities to sustain these positions are all cited in the case of the State against Fields (1 Mar. & Yer. Rep.) and will not here be referred to.”

After going into a detailed examination of the mode of proceeding in such cases provided by the State of Tennessee, and denying that the defendant in the case under examination had a right to file a demurrer, he says:

“The act of 1801, ch. 32, sec. 3, declares the killing in a duel, murder; and that the survivor shall suffer death. This provision was wholly unnecessary, as it always has been murder, punishable with death, without the benefit of clergy, to kill in a duel. The second of the slayer being an accessory before the fact, and a principal present when the murder was committed, aiding and abetting, is equally guilty of murder, and subject to suffer death. It is the law of every Christian country in the known world. Notwithstanding the laws, sanctioned by the concurring opinion of mankind for centuries, it is gravely insisted (accompanied by predictions of terrible consequences) that it is not our duty to have them executed, because it is said good character is not forfeited in this instance, and therefore disqualification should not follow; to prove which, the acts of many English names in the last and present centuries are referred to, as also many in the United States, who have sanctioned the practice by being parties to duels, and who continued thereafter equally distinguished members of society. Let us examine this matter.

"It is true, as a part of the history of our species, that many men of strong minds, have equally strong passions, which are ill controlled, and subject such men to grosser errors than others with fewer mental advantages; these are the men of worth that fight duels, having no guide but blind and reckless passion, when aroused, regardless of their own lives or those of others; hence their conduct furnishes the worst possible evidence upon which to ground a rule for the government of society. This class of duellists are not less wicked than others that we will name, but their standing renders it more difficult to punish them.

"Another set of men fight duels (or more generally make a *show* towards it) to gratify their *vanity*, by drawing upon themselves a little temporary notice, which their personal worth or good conduct cannot procure. These are always worthless coxcombs, equally destitute of bravery, virtue, or sense, whose feeble nerves would be shattered and prostrated at the sight of an enemy in the field of battle, who are ridiculous in every situation when courage is required. This class of duellists do little harm other than to disturb the community; they quarrel to make peace, or if officious intermeddlers force them into a fight, are too much alarmed to hit, or perhaps see their antagonist. The affair is laughed at as a farce, and the parties turned over to the constable.

"Many of this description challenge, because they know the party challenged will not fight, having a due regard to religion, the laws of the country, and his family. The infamy and worthlessness of the challenger generally is such as to disgrace any decent man to notice him. These pretenders to bravery and gentlemanship are always absolute cowards; for no man will challenge another, knowing he either will not or dare not fight, unless he be cowardly. The officers of our army at present dare not fight; therefore it is a disgrace for one officer to challenge another. The most distinguished man in the service lately refused to accept or reply to a challenge, from an officer of equal rank, because he feared his God and the laws of his country; he has met his due reward by having accorded to him the unlimited approbation of his countrymen.

"Let it be once understood that the bar of Tennessee *dare* not fight, and it will be deemed cowardly to challenge a member of it; and this court solemnly warn every lawyer, that if he violates the laws made to suppress duelling, we will strike him from the rolls of the court upon the fact being made known to us. The truth is, such men are often insolent and impudent bullies, who tyrannize over and impose upon all orderly men about them, who literally dragoon society, by fear of personal violence, into silence and seeming acquiescence with respect to their conduct. That such a counsellor is a disgrace, and a serious encumbrance to any court where he is permitted to practice, all will admit; those who engage in duels, the statutes deem, and we will treat, as of this description."

After expatiating at considerable length upon other classes of duellists, and pointing out the numerous evil consequences proceeding from this abominable practice, the judge said:

"Such are duelling and its consequences; and such, generally, the characters of the men who engage in it; which if it does not involve wickedness and criminality, crime deserves no name, and morality no place in the human heart—these do not exist, if this be not a crime."

I take the liberty of subjoining here an extract from a number of the *Spectator*, in which the celebrated Addison gave expression to views very similar to those enunciated from the bench of the Supreme Court of Tennessee more than one hundred years after.

"The placing the point of honor in this false kind of courage, has given occasion to the very refuse of mankind, who have neither virtue nor common sense, to set up for men of honor. An English peer, who has not long been dead, used to tell a pleasant story of a French gentleman that visited him early one morning at Paris, and, after great profession of respect, let him know that it was in his power to oblige him; which in short amounted to this, that he believed he could tell his lordship the person's name who jostled him as he came out of the opera; but, before he would proceed, he begged his lordship that he would not deny him the honor of making

him his second. The English lord, to avoid being drawn into a very foolish affair, told him that he was under engagements for his next two duels to a couple of particular friends. Upon which the gentleman immediately withdrew.

"The beating down (continues Mr. Addison) this false notion of honor, in so vain and lively a people as those of France, is deservedly looked upon as one of the glorious parts of the present king's reign. It is a pity but the punishment of these mischievous notions should have in it some particular circumstances of shame and infamy; that those who are slaves to them may see that instead of advancing their reputations, they lead them to ignominy and dishonor.

"Death is not sufficient to deter men, who make it their glory to despise it; but if every one that fought a duel were to stand in the pillory it would quickly lessen the number of these imaginary men of honor, and put an end to so absurd a practice.

"When honor is a support to virtuous principles, and runs parallel with the laws of God and our country, it cannot be too much cherished and encouraged; but when the dictates of honor are contrary to those of religion and equity, they are the greatest depravations of human nature; by giving wrong ambitions and false ideas of what is good and laudable; and should, therefore, be exploded by all governments, and driven out as the bane and plague of human society."

A few years ago, when certain influences were actively at work, the renewal of which no true patriot could desire, there were some persons of no little social consideration who did not hesitate to complain very clamorously that Judge Catron did not resign his commission as a judge of the Supreme Court of the Union upon the assumption of a hostile attitude to the general government on the part of his adopted state—Tennessee. This was certainly doing him great injustice. His authority as a judge of the Supreme Court of the United States did not emanate from the State of Tennessee. He was emphatically a *federal*—or to speak more correctly a *national* functionary. When he took his official oath as judge, he did not assume an obligation to resign in the event that either

the State of Tennessee, or the State of Kentucky—where in truth he was born—should choose to withdraw from the Union. Besides, the latter of these states certainly can not be said in point of fact ever to have participated in the scheme of secession. His first duty undoubtedly was to the Federal government. Sworn to maintain the constitution and laws of the Union, as “the supreme law of the land,” how could he consistently withdraw from the official position which he held, when, by doing so, under the circumstances existing in 1861, he would have imparted much moral strength, at least, to a cause bottomed upon the policy of overturning that law and destroying that government with which he himself stood connected by the most sacred ties? But, as before observed, his holding on to his judicial commission gave serious umbrage to a certain class of his fellow citizens at the time; and a few over-excited persons in the city where he had so long resided, even went so far as to signify to him in a formal manner their desire that he should leave the State of Tennessee at once—upon a plea that so long as he continued to reside there, he would have it in his power to exercise a sort of *espionage* upon certain proceedings then in progress. As a sincere friend of peace he did not hesitate to comply with this semi-friendly monition, being altogether averse to unkind and angry contention with those who had been his neighbors and friends for something like the third of a century. A characteristic anecdote should here be related. When Judge Catron arrived in the City of Louisville, on the occasion just referred to, it chanced that in one of the Union newspapers published there, an exceedingly acrimonious editorial appeared, complaining violently of the disrespect and injustice which had been inflicted upon this venerable personage by the citizens of Nashville. So soon as he read this article, Judge Catron responded to it over his own signature denying that any personal indignity had been done him, saying all that it was possible for him to say in extenuation of the alleged outrage, and expressing for the citizens of Tennessee in general, and for the people of Nashville in particular, sentiments of the warmest affection and respect. I well

recollect meeting Judge Catron on the street-side in Nashville one morning, a short time subsequent to the election of Mr. Lincoln to the presidency, and making known to him the serious apprehension which I felt that a certain well-known class of Southern politicians in the South were then meditating the adoption of movements looking to the prosecution of a war for the destruction of Union. I asked him what he thought as to the expediency of the true friends of the Union in Tennessee adopting some early steps, of a purely pacific and friendly character, for the purpose of arresting, if possible, the movements alluded to, before they should have received body and dangerous strength—suggesting especially to him, as I did to others at the time, the expediency of sending delegates to the State of Georgia, where a convention was shortly to be held, remonstrating, kindly and earnestly, against the adoption of an ordinance of secession by the people of that state—then, as I thought, most seriously menaced. Never did I see more distress depicted upon a human face than that which I then beheld displayed upon the visage of Judge Catron. But he could not be brought to believe that the danger was so serious as I had suggested. He supposed that the excitement at that time raging was but temporary in its character, and would soon pass away without any large amount of public detriment of any kind. He insisted that if proper vigilance and energy should be used by the government in Washington City—such as Jackson had brought into exercise in 1832—the people of the South would be found as true supporters of the Union as they had been in former days, and that it would be best that in Tennessee the subject upon which we were conversing should be as little discussed as possible. This was the last time that I met this excellent and patriotic person.

I shall now proceed to offer a few remarks upon the life and character of a man whose name has been more or less connected with the prominent events in American history for almost three quarters of a century. Among the first books which fell into my hands, in the days of my early manhood, devoted to what is known as party politics, was a work, now

but little read, called the "Olive Branch," written by the once famous Matthew Carey. From the pages of this entertaining and instructive volume, I learned, that during the war of 1812-15, the Federal editors of the most malevolent and denunciatory stamp were accustomed to associate three personages of very dissimilar attributes, and to write very flip-pantly and insultingly of "James Madison, Felix Grundy and the Devil." This naturally enkindled in my mind much curiosity concerning the second mentioned of these alleged workers of iniquity; which curiosity was revived and intensified, a few years later, on my becoming a citizen of Alabama in the autumn of 1825; where I heard much said by those with whom I associated, touching the marvellous achievements of Mr. Grundy as an advocate in defence of persons charged with the perpetration of criminal offences. It was about this period, or perhaps a little later, that I heard of Mr. Grundy's appearing in defence of a young man accused of having murdered a traveller on the road-side, near the little village of Triana, under very peculiar circumstances indeed. The young man, it was said, having walked out from the aforesaid village one evening, with a gun on his shoulder, for the alleged purpose of hunting partridges, then much abounding in the vicinage, was seen to elevate his piece, just after a man on horse-back had passed him, and to fire it off. The traveller dropped from his horse a lifeless corpse. Those who had been spectators of this deed immediately rushed to the spot, and were informed by the alleged culprit that he had fired at a hawk which he had seen upon a tree only a few steps from the place where the dead body of the traveller was found, and that he had no intention whatever of doing the least injury to the man whom he did not deny he had deprived of life. It did not appear that the slayer and his victim had ever before met, or that there was any particular motive which could have prompted the latter to this strange act of violence. I heard much from those who had witnessed the trial of this young man, of the wondrous powers which Mr. Grundy had exerted in his defence; of the ingenuity which he had displayed in the discussion of the facts of the case, and of his

pathetic appeals to the jury in behalf of his youthful client; appeals, which it was reported had drawn tears from the eyes of all who had been in hearing of this highly gifted speaker. As was to have been expected, the young man was promptly acquitted, though it is certain that to this day there are persons who believe it very doubtful whether the unfortunate deceased was not the victim of a foolish and fanciful *experiment* on the part of a reckless and inconsiderate young man, belonging, youthful as he was, to that class of human bipeds described in Holy Writ as monsters "scattering arrows, firebrands and death," and then "crying out 'am I not in sport?'"

During many years subsequent to this trial, it was my fortune to be so located as to get tidings of many similar achievements on the part of Mr. Grundy, who, as is recollected by many yet surviving, was not only extensively concerned, for a long period of time, in criminal practice in the State of Tennessee, but was repeatedly called to the courts of adjoining states, to render his aid as an advocate in cases of the gravest import, where parties felt themselves able to pay remunerative fees to counsel resident in distant localities. I have lived for the seventeen years last past, in the midst of those to whom Mr. Grundy was necessarily well known, as a neighbor and fellow citizen, and who also enjoyed numerous opportunities of listening to him, alike in the discussion of matters connected with his own profession, as when addressing large multitudes upon political questions deeply involving the welfare and honor of the whole Republic. I do not therefore feel it to be at all presumptuous in me frankly to state here the conclusions to which my mind has attained concerning one with whom my own personal acquaintance was unfortunately quite superficial.

Felix Grundy was a native of Virginia; but spent the years of his early manhood chiefly in the State of Kentucky. To have achieved distinction at the bar in Kentucky at that period of her history, when such men as Clay and Rowan, Harden and the Wickliffs, Bledsoe, Barry, and many other advocates of almost equal ability, had to be encountered as competitors, implies the possession of powers not ordinarily

displayed by the seekers of forensic fame. To have honorably represented an intelligent and patriotic constituency in Congress, during the most stormy and troublesome period of Mr. Madison's administration, and to have gained such decided prominence in the councils of the Republic before he had yet reached his intellectual meridian, as to have been singled out by the champions of faction as a fit subject of malignant reprehension and opprobrium, must be regarded as a distinction far more to be coveted than to be deplored. Upon Mr. Grundy's political career in Tennessee, I do not feel called upon at the present to pass. There was doubtless much in it to be warmly commended, and much in it perhaps also which, in the light of subsequent experience, very many of his warmest admirers could not conscientiously approve. As a jurist, he has not been regarded as having been very deeply and extensively informed; nor did he ever manifest an ambition for the highest celebrity in this respect. In scholastic attainments no one has thought of claiming for him a very high rank. His general reading was very extensive, and his knowledge of the affairs of the world and of the human heart, was such as has been seldom surpassed. His person was impressive and commanding; his face was radiant with the mingled beams of genius and benevolence; his voice was naturally of great strength and sweetness, and it had been so modulated by judicious discipline, as to adapt its tones most happily to the expression of all the emotions of which the human soul is susceptible. His gesticulation was never profuse, but always apposite and graceful. When addressing either court or jury, his manner was composed and full of dignity, unmixed with either arrogance or affectation. His countenance was habitually serene and benignant. He never indulged in coarse and unseemly denunciation; in buffoonery or low ridicule; or in boisterous and vehement declamation. To everything like rant or rhapsody he was altogether averse; nor was he by any means given to pedantic pomposity, or inclined to the making of elaborate efforts to pass himself off upon his audience as a man of superhuman wisdom and of an amount of learning beyond all that the

sages of either ancient or modern times could justly boast. Never was Mr. Grundy known to indulge in metaphysical subtlety, or to seek the applause of the superficial and uncultured by forced and extravagant figures of speech, by exaggerated appeals to the passions, by wire-drawn distinctions having no foundation in reason and experience, or by inappropriate and unreasonable quotations from poets or rhapsodists: notoriously remarkable only for glittering but meaningless generalities, for absurd and puerile conceits, or for turgid and empty verbiage without the least claim to sense, to significance, or to veritable ornament. For points of special pleading he had not the smallest relish, and the argument of demurrers, either general or special, he was always glad to devolve upon associate counsel. He is reported by those who have heard him most frequently, to have entered upon the discussion of matters, however important they might be, with no *appearance* of previous preparation, though there can be no doubt that when time and circumstances allowed thereof, he did not fail to perform his duty in this respect. Indeed I have reason to believe that, though this renowned advocate knew, as well as William Pinckney or any one else, how to put in practice the *ars celare artem*; yet that he had in his time devoted far more attention than the majority of our modern orators are accustomed to do, to that noble *art rhetorical* which such men as Demosthenes and Cicero, Chatham and Mirabeau, Choate and Everett are known to have thoroughly mastered. Five fundamental rules I am confident he never failed to observe: 1. To study and understand beforehand, perfectly, the matters, whether of fact or law, which he was called to discuss: 2. To arrange all these matters in an orderly manner in the repositories of his own mind: 3. To impart such ornament to the whole mass thereof, or to detached parts, as he might judge most tasteful and impressive: 4. To store all these in his memory, so as to be able to bring them into display with readiness and ease: and 5. To pre-determine everything material connected with what we moderns call *delivery*, and what the ancients called *action*, embracing, of course, the expression of the countenance, the movements of

the body and its several members, and all the different intonations of which the human voice is susceptible.

I have been told that Mr. Grundy was at times, when the occasion seemed to justify such an experiment, exquisitely humorous—not always refraining from the exercise of a species of innoxious and inoffensive *mimicry*; and by such means he is reported to have more than once convulsed large crowds with irrepressible merriment. I am disposed to think though that the display of his powers in this respect must have been confined to occasions of a strictly political character; and I hold it to be certain that his own good taste would scarcely have permitted him to indulge his admitted *comic* vein when handling topics of a deeply *tragical* import. I have heard not a little said concerning a singularly facetious speech made by Mr. Grundy in the presidential campaign of 1840, at the town of Columbia, when he is reported to have rung the changes upon hard-cider, log-cabins, coon-skins, Ogleism, silver spoons, &c. &c., in a manner that produced almost inextinguishable laughter among the gravest and most devoted supporters of Harrison and Tyler.

An anecdote has been long in circulation which may be perhaps not inappropriately related. During this same campaign of 1840 the presidential contest was specially enlivened in the neighborhood of Nashville by the presence of many distinguished orators, and among them Mr. Clay. The alleged mal-administration of the preceding twelve years, during which the Democrats had been in power, was expected to be exposed, as it indeed was, in the most impressive and effective manner. The great leader of the Whig party was himself decidedly in the *prosecuting* vein, and showed powers of accusatory eloquence little inferior to those displayed by Cicero in his speeches against Verres, or Burke in his terrible arraignment of Warren Hastings. Mr. Clay, on reaching Nashville, is reported to have enquired eagerly for his old friend Grundy. On being told that he had left home to attend a large Democratic meeting in a distant part of the country, "Oh," the facetious chief of Ashland exclaimed, "I am not at all surprised to hear that mine ancient friend is still

engaged in his accustomed occupation of *defending criminals*."

When Mr. Grundy was at the very acme of his fame as an orator, a member of the Nashville bar was slowly and toilsomely climbing his way to eminence in a special department of the legal profession, for complete success in which neither scholastic culture, nor general literary attainments, nor the most varied and extensive knowledge of law as a science, nor a brilliant and graceful elocution, constitutes the stepping-stone to fame and emolument. Jenkin Whiteside has come down to the men of this generation exclusively as a great *land-lawyer*. No one was more familiar than he was with all that Coke and Blackstone, and the other English writers, have said in their labored and profoundly reasoned treatises upon the law of real property. No man had mastered more fully than himself the principles involved in the doctrine of Executory Devises and Contingent Remainders. No lawyer of his time could talk more learnedly and luminously upon the celebrated *rule in Shelley's case*; and he manifested a steady energy and a masterly dexterity in the management of all the sharp points and subtle devices that appertain to the trial of actions of ejectment; which things gave him many advantages over a more sluggish and less wily adversary. No man could be more conversant than was Jenkin Whiteside with the whole history of land titles in Tennessee, as well as with the operations of the land offices both in that state and North Carolina; a species of knowledge quite indispensable to success in the arduous but profitable vocation in which he had enlisted, and upon which his attention had been concentrated in a manner rarely exemplified. He was undoubtedly a man of vigorous understanding; of wonderful sagacity and acuteness; devoted much to money making, and especially delighting in what was known as speculation in uncultivated lands, of which he had, in one way or another, at different times, accumulated large bodies, the titles to which were not rarely involved in troublesome and expensive litigation. He was of a rough and unimposing exterior; of awkward and ungainly manners; and had no relish whatever for those elegant and refined pursuits

which are understood to distinguish polished and aristocratic communities; but he is admitted by all who knew him, to have been civil and unobtrusive in his general demeanor; not deficient in public spirit; and of a coarse and unpretending cordiality which made him many friends and no enemies.

It is not perhaps generally known that the celebrated Thomas H. Benton was at one time a member of the Tennessee bar. Terminating his educational exercises at a college in North Carolina, he migrated to Middle Tennessee, and became the teacher of a small school upon Duck river, not many miles distant from the present beautiful town of Franklin, in which latter place he subsequently commenced the practice of his profession. The little brick tenement, which he first occupied as an office, is yet in a state of good preservation, and is often-times pointed out by the hospitable residents of Franklin to the passing traveller. Mr. Benton from the first was much fonder of political pursuits than of the study of law-books; and greatly preferred the making of stump speeches to the argument of legal causes. He never enjoyed a large practice as a lawyer, and tradition has not supplied us with any precise information touching his appearance in forensic contests. That Mr. Benton possessed intellectual powers which might, with proper culture and application, have ultimately secured him no inconsiderable rank as a jurist, no one at all acquainted with the public scenes in which he afterwards participated, would be inclined to doubt. Without being what is called a *man of genius*, he certainly possessed intellectual faculties far above mediocrity. He was ever a diligent reader of books, and more than ordinarily ambitious of fame and influence. His reading though was always of a miscellaneous character, and occasionally such as was calculated rather to cramp and confuse his conceptive organs, than to animate and invigorate them. His scholarship was never deep and thorough; his mind was lacking in genuine elastic vigor; of imagination he was wholly devoid, and of delicate and refined comic humor he never seemed to have formed even the most imperfect idea. No man was ever more industrious, more persevering, or more fertile in expe-

dients than Mr. Benton. In dialogue, when he chose to unbend himself, he was not a little instructive. His topics of conversation, at least in the evening of life, were exceedingly limited in number, not always of an attractive character, and not uniformly pleasing to persons of delicacy and refinement or to individuals of a placid and kindly temper, to whom the language of boisterous denunciation, or of sneerful innuendo, can never be otherwise than disagreeable, if not offensive. No amount of rhetorical training could ever have enabled Mr. Benton to cope in lively and splendid forensic eloquence with such persons as Henry Clay or Felix Grundy; in mere legal argumentation he could not hope, however favored by circumstances, to rival the condensed vigor of a Marshall or a Pinckney. The ready and rapid flow of choice and appropriate words, and of earnest, clear, and forcible logic, sometimes bordering upon metaphysical subtlety, and occasionally embellished and adorned with sublime generalities, to which Mr. Calhoun was indebted for so large a portion of his fame and influence, seemed ever to rouse in Mr. Benton a feeling allied to astonishment, not unmixed with an emulation nearly akin to resentment, and a painful restlessness apparently arising, in some degree, from the mortifying sense of intellectual inferiority, and the despair which he could not but feel of ever being able himself to ascend to those empyrean heights of grand and lofty thought where the great South Carolinian seemed to be as much at home as if he had been traversing the level and beautiful fields of his own loved plantation in the time-honored Palmetto state. Mr. Benton's voice was to the last most harsh and untunable, his gesticulation was clumsy and ungraceful; he delighted in the delivery of long and tedious set discourses—always over-crammed with matter not always perfectly germane to the subject under consideration; and it is not at all unjust to him to say that he was far more plenteously endowed with the dictatorial spirit than with the gentle graces of persuasion, and that he was much less ambitious of conciliating opposition, than of crushing out antagonism by untempered and overbearing force. Let no one imagine though that Mr. Benton was as defective as a writer, as

he was infelicitous as a speaker. When he chose to do so, he could express himself on paper with a clearness and precision not often equalled; he had command of a simple, nervous, and idiomatic English style which few of his own generation could boast; and there is one specimen of his elaborate composition which no man of just taste can peruse without unmixed gratification. I allude now to the eulogy delivered, or rather read by him in the national Senate upon his colleague, Dr. Lynn; which I have read more than once and always with renewed and increased admiration. Mr. Fox's celebrated eulogy upon his friend and compatriot—that Duke of Bedford, who, whilst living, was so unfortunate as to be so terribly stigmatized and derided by Mr. Burke—I confess seems to me to be decidedly inferior in all essential respects to the speech of Mr. Benton to which I have referred; and, had he always written and spoken so happily, he would have attained a far higher rank in the world's estimation, than can be now accorded to him.

For a year or two, during Mr. Benton's residence in Tennessee, he was connected in the practice of law with a gentleman who afterwards rose to considerable prominence, and who is understood to have been more than ordinarily successful in regard to what so many attorneys recognize as the prime object of professional exertion—the acquisition of a fortune. I have now allusion to the late O. B. Hayes, who became a resident of Nashville in the year 1808, having previously studied law in the City of Baltimore. Mr. Hayes was a native of Massachusetts, had there received a liberal education, and in after life, is said to have always paid more or less attention to classic literature and to such other studies as were best calculated to improve his taste and fit him for the duties of an advocate. Opinion has been much divided as to his claims to oratorical excellence. By some he was very highly admired, and I have heard one or two of his efforts—especially in the defence of persons charged with crime—very highly lauded. All admitted his facility of speech, his extensive and accurate knowledge of law, and his abundant zeal and industry. A few have thought his manner as a speaker

to have been somewhat marked with a stiffness and formality, bordering on affectation. He appeared often in the argument of land causes, and the briefs filed by him will be found always to have been skilfully framed and full to exuberance in the citation of adjudicated cases. Towards the close of a somewhat bustling career, Mr. Hayes became a minister of the Gospel, but is not understood to have acquired in this new calling a rank altogether equal to that which he had previously enjoyed at the bar.

Sam. Houston too was once a seeker of forensic fame in Tennessee. Born in Rockbridge county, Virginia, reared to manhood partly in East Tennessee, he joined, when he had scarcely reached the age of maturity, the noble volunteer army led by General Jackson against the hostile Indians then resident in what is now called the State of Alabama, and displayed much valor in this famous campaign—especially at the battle of the Horseshoe, where he received a painful and dangerous wound, from which he is said never afterwards to have recovered. At the close of the war of 1812-13, he read law and located in Middle Tennessee. The house which he for several years occupied in the town of Lebanon, was once pointed out to me. General Houston was never what is called a profound jurist, having very early been tempted to abandon his professional studies by the prospect held out to him of occupying a seat in Congress. In this body he served several years, but delivered no speeches fitted to give him permanent reputation either as an orator or statesman. Mr. Webster, one day, when General Houston was delivering a speech in the national Senate, upon a question of no little moment, and in a style and manner very like some of the histrionic displays which we witness at theatres, smilingly said to me, that his friend Houston, when they were in the House of Representatives, had been a regular attendant upon dramatic performances in Washington, and had labored to form himself as a parliamentary debater upon the model of some celebrated actor then in vogue—I think either Forrest, or the elder Booth. This was doubtless a great mistake on his part, and assuredly operated as a serious obstruction to his

success as a political speaker. His subsequent romantic career is well known to the public, and need therefore not be here dwelt upon. He was doubtless a man of considerable ability, of much amiability in private life, and an unswerving devotee and friend of our National Union. The day must yet come when that self-sacrificing zeal which he displayed in the closing days of his long and brilliant public career, will be duly appreciated by his countrymen everywhere.

It was my fortune many years since, whilst he was running quite a brilliant Congressional career, to form a very agreeable acquaintance with a gentleman who though only nominally a lawyer in Tennessee, I am not willing to pass without a brief notice. Abram P. Maury was a member of a well-known and highly honored Huguenot family who were driven from their native land by cruel religious persecution, and who located in Virginia. The subject of this notice was born in Tennessee. He was educated at West Point; evinced very early and decided fondness for literary and scientific pursuits, and gained much reputation as a contributor to several extensively circulated periodicals. He settled at the City of St. Louis in 1820, and if I am correctly informed, participated in the establishment of the *St. Louis Republican*, now a newspaper of such commanding influence. Disposing of his interest therein, he returned to Tennessee, and in connection with others, established the *Nashville Republican*, which afterwards became the *Republican Banner*. This last well-known journal has now become merged in the *American*. Colonel Maury was a gentleman of the most polished and winning manners, of most unexceptionable morals, and of tried and tested patriotism. Voluntarily retiring from public life, his last days were spent in the enjoyment of the sweets of domestic and social intercourse and in pursuing those studies which most conduce to intellectual culture and practical usefulness. He died in his forty-eighth year, and left behind him numerous friends and admirers who yet hold him in respectful and kindly remembrance.

In the month of November 1829, I was journeying, in quite a leisurely manner, through that portion of the State of Ten-

nessee then known as the western district. Reaching one evening the little town of Savannah, I sought entertainment for the night at what seemed to be the principal hotel of the place. Here I found a goodly number of attorneys, some of whom had then acquired much reputation at the bar and others were hopefully toiling for the rewards of professional industry. A circuit court was being held in the town, in which Judge Turley was presiding. With this gentleman, whom I had never before seen, I was very much struck at first sight, and on hearing him in free conversation with some of the lawyers in attendance, in his own room, I became every moment more and more delighted with the extreme benignity of his aspect, his overflowing cordiality, his sound and instructive views of men and of books, and his felicitous style of expressing himself upon all the topics which arose for discussion. He was then apparently thirty years of age. I suppose him to have been about five feet ten inches in height, of a well proportioned figure, and he was exceedingly easy and graceful in all his movements. He might even have been called a handsome man, and he was on this occasion clad in a simple suit of black, which fitted him admirably and was wholly unstained with use. With the members of the bar he seemed to be a great favorite, all of whom spoke of him as decidedly the most rising man in the state. I was not at all surprised to hear afterwards of his elevation to the bench of the Supreme Court, and, in still later years, to behold in the volumes of reported decisions which made their appearance during his short but brilliant judicial career, evidences of learning and ability such as have placed him very high indeed upon the roll of the illustrious worthies who have at different times taken part in the duty of meting out exact and impartial justice to all the various classes of their fellow citizens. The opinions of Judge Turley as recorded and promulgated evince an amount of legal learning which could not well be overestimated. He seems uniformly to have expressed himself in the most perspicuous and polished language, and he poured forth such a stream of continuous and well-compacted logic as could not leave the smallest doubt upon the minds

of others either as to the depth and earnestness of his own convictions, or the absolute correctness of the conclusions to which he gave such weighty and eloquent enunciation. Those who have had most intercourse with the members of the bar of Tennessee, in the various sections of the state, will agree with me in asserting that among those who had the gratification of seeing Judge Turley on the bench, and of hearing him when delivering opinions in cases of special magnitude and difficulty, there is a universal conviction existing that a greater judicial name than his has never yet become associated with the administration of justice in this section of the Union. If there be those who have the least doubt as to this matter, I would ask them to read with attention the whole history of the deeply interesting case of *Montgomery v. Hobson*, reported in the tenth volume of *Yerger's Reports*, and sure I am that they will doubt no longer.

There are not a few lawyers in the state of Tennessee who are inclined to recognize the period during which Judges Greene, Turley and Reese conducted so ably and satisfactorily the business of the Supreme Court as a sort of Augustan era in the judicial annals of this far-famed commonwealth. Whether this view of the subject is justified by facts I shall not presume to decide. Of Judge Turley I have already spoken. With Judge Reese I had not the good fortune to have the least personal acquaintance; but I have universally heard him spoken of as a man of the greatest uprightness, of the most ample legal attainments, and of scholastic and literary culture of a very high grade. The style in which his opinions are drawn up is eminently creditable to him; the reasonings embodied therein are in full keeping with the language in which they are presented by him; and I have understood that they lost nothing either of force or impressiveness from the manner in which they were enunciated from the bench by their distinguished author.

I knew Judge Green most intimately, and had with him some very peculiar and interesting relations. He was truly a man eminently entitled to be loved and venerated. I had become somewhat familiar with his claims to respect as a

judicial functionary, from a diligent perusal of his published opinions, some time anterior to my meeting him personally. It was during a deeply interesting criminal trial in the year 1860 that I first beheld this gentleman. He appeared as a witness in behalf of a young man who had been unfortunate enough to slay one of his associates of the Lebanon University, and in whose defense I had been invited to participate. The testimony of Judge Green was of a most important character, and he was retained under examination some twenty or thirty minutes. His demeanor on this occasion was most solemn and impressive, and he evinced throughout a tender sympathy in behalf of the accused, and a deep and unmistakable solicitude for his fate. I did not see this venerable personage again until our respective friends had thrown us into competition for a seat in the Confederate Congress, the cares and responsibilities attendant upon a seat in which body I have a thousand times since wished had devolved upon him instead of on myself. For several weeks the contest between us proceeded, and questions were discussed by us, as well as by a third candidate, of a nature not a little exciting to the popular mind. But never did he utter one unkind or disrespectful word towards myself or towards others. His manner was uniformly of an amiable and even of a patriarchal character, and when we parted at the close of the canvass we were even better friends than we were at the commencement thereof. I never saw him afterwards, and happily he did not live to feel the sufferings and encounter the troubles which others have been fated to experience.

Judge Green was born in Virginia and was, when I formed his acquaintance, in his seventieth year. I heard from his own lips that he was born in the same year with William C. Rives; that he knew him well before his migration from his native state, and that he was sworn in as a lawyer at the same court and on the same morning with Mr. Rives. He was a man of most majestic stature, of a highly commanding aspect, and of sedate and gentlemanly manners. The state of Tennessee owes to him a heavy debt of gratitude, as

well on account of his long-continued, able and useful services upon the bench, as by reason of the fact that he officiated, for many years after his retirement from the performance of judicial duties, as one of the professors at the law university at Lebanon, where so many young men of the South have received such sound and judicious training for the performance of forensic duties as few institutions in the country have been known to supply.

Having incidentally spoken of this famous seat of judicial learning, I seize the opportunity of alluding to another venerated personage to whom the Lebanon Law University owes much of its celebrity. Judge Abram Caruthers, the author of that admirably digested volume known as "*The History of a Law Suit*," has in the preparation of this valuable work done more perhaps to enable young and inexperienced attorneys to master the dry and perplexing formalities of practice, and to relieve their minds from the embarrassing technicalities which are sometimes so much fraught with discouragement and solicitude, than any man of the present generation. I knew Judge Caruthers well, though I never had the advantage of being present on any occasion when he was holding court; and I had much pleasant and profitable intercourse with him during the last year of his mortal pilgrimage. I saw him on his death-bed in the town of Marietta, Georgia, where he was for some time sojourning during our mournful civil war, to the sad and horrifying incidents of which I am satisfied his untimely decease may be safely attributed. I was one of the numerous concourse of bereaved and saddened friends who attended his remains to the tomb. I drew up for publication his obituary notice, and drafted the resolutions adopted in honor of him at that period, by an assemblage of his professional brethren of several states of the Union; and I now declare that, in my judgment, a purer, wiser or more patriotic man I have never known; that a sounder and more highly informed jurist Tennessee has never produced; and that a more attentive, judicious and skilful law-instructor no university on either side of the Atlantic has numbered among its professors.

Among the lawyers of the Tennessee bar whom I have

already mentioned as having been seen by me in company with Judge Turley in the town of Savannah, forty-five years ago, was the celebrated Pleasant M. Miller. He was then far advanced in life, but was still actively concerned in the business of his profession. I found him to be a most civil and affable gentleman, easy and unaffected in converse, and full of lively sallies of good-natured raillery. He seemed to be very much respected by his brother attorneys, and to receive in his intercourse with them many tokens of deferential regard of a most flattering character. Mr. Miller was a Virginian by birth, but had located in East Tennessee at a very early period, where he very soon obtained high rank, both as a jurist and advocate. It is of this gentleman that Mr. Parton in his *Life of Jackson* relates substantially the following rather ludicrous anecdote: Whilst Patrick Henry was still astonishing all who heard him speak by his marvellous powers as an orator, it chanced that General Jackson, who was then a dashing young attorney, took a trip to one of the neighboring counties of Virginia, where he had the good fortune to hear one of Mr. Henry's most effective jury speeches. He returned to his own home full of admiration of the "Forest-born Demosthenes," and occupied himself much for several days thereafter with the most hearty laudations of his eloquence. He had done so on one occasion when in the presence of Mr. Miller and the afterwards well-known George Washington Campbell, when the latter is reported to have called Mr. Henry's abilities as a speaker somewhat in question — suggesting very gravely that the world was oftentimes exceedingly unjust in its estimate of men, and especially of forensic personages, and that he did not at all doubt that there were many to be found all over the country not a whit behind Mr. Henry as an orator, who had not been yet given credit for abilities of more than an ordinary character. To which Miller facetiously responded: "Campbell, I perfectly agree with you, and have not the smallest doubt that if you and I could once manage to get Patrick Henry enlisted in opposition to us in some suit in our county court, we would be able to make such havoc of his reputation as an

advocate that no one would ever again be heard to chant his praises, as everybody seems now to do." Words like these, uttered in a tone and manner amiably ironical, roused General Jackson, and brought forth from him the terrific exclamation: "*Bring me my pistols!*" On being asked what he wanted with his pistols, he replied: "I wish to kill Miller at once; for he has just immortalized himself, and it is better he should die at once than to live and do aught to destroy the glory he has just acquired." George W. Campbell was in many respects entitled to be kindly and respectfully remembered. At different periods of his long and diversified career he enjoyed a large and lucrative practice as an attorney, and succeeded in accumulating a large estate. He was for a short time on the bench of the Supreme Court of the state, for several terms a member of the National House of Representatives, a Cabinet officer and a Minister to the Russian capital. His amiable and accomplished wife—before marriage a Miss Stoddert, and daughter to a well-known member of the Cabinet of John Adams—was a lady of rare intelligence and of many domestic and social virtues. Both Mr. Campbell and his wife lived to extreme old age, leaving a vast estate to be enjoyed by a daughter, one of the most intellectual and public-spirited ladies of the age, the early decease of whose only brother left her the sole representative of a noble stock and the sole inheritress of more wealth than is at all necessary to felicity or usefulness. Lezinka Campbell inter-married when yet very young, with a gentleman whom I once knew well; and, upon his decease, remained for many years in a condition of reserved and dignified widowhood, devoting all her attention to the training and education of her two children, a son and daughter, and visiting Europe in 1859, for the purpose alone of accomplishing this most sacred duty more perfectly. When she returned to her native land, she found it convulsed with civil war. In this war her son enlisted at once on the Confederate side, served as aide-de-camp to the celebrated General Ewell in several campaigns, and doing his full duty as a gallant soldier. Now General Ewell was cousin-german to Mrs. Brown, had been familiarly associated

with her in early life, and had been her devoted admirer. Seeking her hand in wedlock and being disappointed in his suit, he gave up all thought of marrying, and devoted himself for a series of years, with most painstaking fidelity, to his duties as an officer in the Federal army, where he succeeded in obtaining a high rank. The beginning of the war found him in New Mexico. Deeply regretting the occurrence of this unbrotherly and wholly unnecessary conflict, as a Virginian born, he, like General Lee, resigned his commission as a Federal officer, and tendered his services to the Confederate officials. In one of the most terrific battles of the war, fought only a few miles from the spot of his birth, one of General Ewell's legs was carried away by a cannon-ball, and for several weeks he lay in a disabled, helpless condition. Under these circumstances Mrs. Brown, who, during the war, had more than once journeyed to the Confederate camp on a visit to her son, most naturally claimed the privilege of tending upon her suffering relative as his nurse, and to her gentle and unremitting attentions in that capacity, the languishing hero was doubtless greatly indebted for his ultimate recovery. I visited General Ewell often, whilst confined to his bed in Richmond, and always found this ministering angel watching over him with sleepless vigilance, and cheering him up by hopeful and recreative converse. One evening, when I called to see General Ewell, he mentioned to me that he saw, on reading the morning papers, that General Sterling Price was in the city, and, stating that he had long held him in the greatest admiration, asked me whether I thought that he would come to see him, if invited to do so. I answered at once in the affirmative, and took it upon myself to bring this gallant and noble-spirited man to his bed-side next morning. This, of course, I did not fail to do, and well recollect that we had to walk through a thick and blinding snow-storm for more than a mile along the streets of Richmond, in order to fulfill this interesting engagement. Never shall I forget the scene which ensued in General Ewell's sick-room, or the hearty interchange of affection and respect which then occurred.

No one should now be surprised to learn that, on General

Ewell's restoration to health, the hope of his young manhood was at last realized, and he became the husband of the only woman he had ever loved.

For several years after the war had drawn to a close, General Ewell and his wife lived in a state of connubial bliss seldom realized on earth. They were my neighbors and intimate friends, whose society I prized more highly than I can well express in words. About three years ago the General was suddenly stricken down by a malignant fever, which baffled the skill of all the physicians who were called upon to minister to him. When he was in a critical condition, expecting every moment to breathe his last, his wife, who had been for days nursing him most faithfully, was visited by the same terrible malady, and only survived a few hours. The dying hero, on hearing of her decease, demanded a last sight of those beloved features which he had so long felt to be identified with his own being. Her yet life-like but inanimate form, dressed for the tomb, was borne to his bed-side; he gazed upon the face of his beloved for one single moment of heart-convulsing but tearless agony, and fell back upon his pillow as dead as the corpse upon which he had been tenderly gazing!

I may be allowed here to mention that the father of General Ewell was once a distinguished resident physician of the City of Washington, and the author of a well known and valuable work called, I believe, "Ewell's Family Medicine." He was born in the county of Prince William, Virginia, where I have repeatedly seen him in the days of my own boyhood. He and my father studied medicine together in the old and now decayed town of Dumfries, in the office of Doctor George Graham, who died about the year 1814. I witnessed the burial of Dr. Graham in a piece of beautiful wood-land—part of his own farm—and listened to the reading over his remains of the beautiful funeral service of the Protestant Episcopal church, by my father, for want of the presence of a Christian minister. His grave is not more than a mile or two from the famous spot where the last battle of Bull Run was fought. Dr. Graham was the great grandfather of Mrs. Jefferson Davis, so that when the whilom Confederate chief

visited the field of slaughter on the day after the falling of so many gallant men on the field of bloody strife, he was (doubtless without the knowledge of a fact so interesting) within a few minutes ride of the place where had quietly slept, for nearly fifty years, the venerable progenitor of his own loved children!

But whither am I wandering, forgetful of what Horace has said so pithily of the gabbling loquacity of advanced years? Let us say with the great Moliere, *Revenons a nos moutons!*

There is a gentleman of uncommon worth, now resident in Washington City, and holding a most responsible official position, who was for quite a long period a distinguished member of the bar of Tennessee, but whom, having closed his professional career in this part of the world, I am inclined to make an exception to the rule which I have heretofore thought it best to observe, of confining my description of individuals to persons no longer living.

Return J. Meigs is a name which is destined to be favorably recollected for many generations yet to come. High though as are his merits and qualifications, I am not certain of being able to delineate him more justly than I have already done, in a newspaper article published a few months since, a portion of which I will here insert:

"In the year 1858 I was traveling on the railroad which connects Nashville with Chattanooga, when I was introduced to a gentleman whom I had never before seen. Having for many years heard him spoken of as a jurist of profound learning, a ripe and accurate scholar, a public-spirited and patriotic man, and, withal, renowned for all the virtues which adorn social and domestic life, I could not but regard it as an instance of personal good fortune thus to be allowed to form his acquaintance. Having much curiosity about this personage, it was but natural that I should seek to draw him into familiar converse. I found him polite and affable, but he was evidently at the time in low spirits, and there was something in his tone and aspect which made the impression upon my mind that he had recently been visited with serious misfortune of some kind, the remembrance of which was

then sorrowfully preying upon his sensibilities. He left the car in which we were riding at some wayside station, and we were once more in motion. I learned on inquiry that this gentleman had, a few days before, lost an amiable and accomplished wife, whom he had loved with a devotion well-nigh romantic, and that his many friends were beginning to fear that his former cheerfulness and animation would never more return to him.

"The individual to whom I have been referring is now as I have said, a resident of Washington City and is the incumbent of an office, the duties of which all admit him to be discharging with singular fidelity and credit. I will now mention his name; it is Return J. Meigs, a man who at this moment is greatly loved and respected by all respectable and patriotic citizens of Tennessee on either side of the Cumberland Mountain range. He was concerned for nearly thirty years in the management of as large a number of difficult and important causes, before the various judicial tribunals of the state, as any one individual that can be mentioned. He is the author of a voluminous digest of the judicial decisions of the state, which I have long regarded as by far the best arranged and most skilful book of the kind which I have ever yet examined, and is one of the honored compilers of the "Code of Tennessee," which will favorably bear comparison with any other municipal code which has fallen under my view. Tennessee is more indebted to this learned and accomplished person for that choice collection of books, to be found in her valuable state library, than to all other persons besides, whether living or dead. There are but few languages which have been heretofore spoken and written among civilized men with which Mr. Meigs has not made himself more or less acquainted. In the Latin and Greek classics he has been asserted to be thoroughly versed, by far more competent judges than the present writer. He has given as much attention to what is known as comparative philology as any man I have yet met. I verily believe that there is no useful branch of human knowledge that has found preservation in printed books which is altogether *terra*

incognita to his curious and scrutinizing intellect. He has ever manifested a deep and most generous interest in the general spread of education, as well as in the various projects and experiments looking to reform and improvement in the methods of teaching."

I often met Mr. Meigs in social intercourse whilst he continued to reside in Nashville, and now look to the moments then spent in commune with this gifted person as among the most pleasant and instructive of my whole life. Our occasional encounters in the room of our state library (shall I confess it?) on the long and otherwise almost unoccupied Sabbath days, I am quite confident that I shall not cease to remember, with both gratification and thankfulness, so long as I shall myself be permitted to live.

Mr. Meigs practised law for many years in Athens, East Tennessee, and afterwards removed to Nashville, where he ran as brilliant, as useful, and as amiable and inoffensive a career as any man has done of whom I have any knowledge. Here he remained until the terrible excitements which marked the first year of the late ever-to-be lamented civil war induced him to make sale of his possessions there and remove to some less tempestuous locality. It is indeed distressing to reflect that such an individual as I am describing, should have been compelled by such causes as have been specified, to leave the home which had become so dear to him, and to break asunder so abruptly all the social ties of a life-time; but so it was! Mr. Meigs was a firm and inflexible Union man. Who would not now rejoice to have been equally faithful to the example of our honored fathers? He mortally detested the absurd and country-distracting dogma of *Secession*, and he had but little respect either for the understandings or the hearts of those by whom it was noisily and mischievously agitated. He sometimes expressed his views touching these matters in the frank and manly language which was in keeping with his own character; and he occasionally ventured to use words of expostulation and warning which thousands now deeply regret not to have patiently and respectfully listened to. But never did he descend to

the use of coarse and scurrilous epithets, to the employment of which he was indeed wholly unaccustomed. I have always thought that fully nine-tenths of our Nashville population would have fought, if necessary, in defence of this excellent man's life and person, but there were, doubtless, at the period referred to, a few noisy zealots, such as no commercial city is ever altogether uncursed with,—persons hanging loosely upon the skirts of society, and ambitious of gaining a vulgar notoriety, by the employing of menaces such as they had not the least intention of attempting to execute. Certainly I never suspected that Mr. Meigs was in danger of mob violence until after the state had lost forever as a citizen one the want of whose presence in our midst is not at all likely to be supplied for many years to come, if ever. When Mr. Meigs left the City of Nashville he left no equal behind him in general scholarship, and no superior in legal attainments. The only man who could at all risk comparison with him, among those who resided among us fifteen years ago, was the venerable Francis B. Fogg, who, now an octogenarian, is as gentle and kindly, as entertaining and instructive as he could have been when battling with that race of intellectual giants of a former generation whom he has been permitted to survive. No one who knows Mr. Fogg well would refuse to join me in saying of him, (what I do verily believe) that he has at this time no superior west of the Alleghany Mountains in deep legal research, in scholarly accomplishments, and in unstained purity of morals. His uniformly calm and philosophic dignity of aspect and demeanor, his winning graciousness of temper, and his ever overflowing benevolence have justly rendered him an object of general esteem and veneration. *Serus in cælum redeas!*

Pope, referring to Lord Mansfield, exclaims: "How sweet an Ovid was in Murray lost!" Often is it that men of extraordinary intellectual promise fail to attain fame of some particular kind by reason of having allowed themselves to be withdrawn from pursuits to which they do not perhaps perceive their own special adaptation. Two members of the bar lie entombed in the neighborhood of Nashville, each of whom

gave early and impressive tokens of future forensic distinction; but both of whom having been seduced from the study of law books by the more attractive scenes of political life, are scarcely ever alluded to now as members of a profession which they were so well fitted to adorn. It is of James K. Polk and of John Bell that I am now speaking, and to each of these eminent personages I shall pay somewhat more than a passing notice.

James K. Polk was born in North Carolina, and is said to have graduated at the principal college of that state with more than customary honor. He became a student of law immediately thereafter, and on obtaining license to practice, located in the beautiful and healthful village of Columbia. He was very soon recognized as one of the most industrious and skilful attorneys in the section of Tennessee where he had determined permanently to reside. His even and benignant temper, his gentle, unobtrusive, and conciliatory manners, and his uniformly moral and upright conduct soon surrounded him with clients and ardent personal friends and admirers. His ability as a lawyer has never been doubted; but ere he had attained the high professional rank to which he aspired, he was persuaded to become a candidate for a seat in the Congressional House of Representatives, to which he was elected almost without an effort.

At the same period of time, John Bell was engaged in the legal profession also, in a neighboring town. He too was urged, when quite young and inexperienced, to enter the political field, which he did under very exciting circumstances. In his first contest for a seat in Congress, he had to encounter as an opposing aspirant the celebrated Felix Grundy. A more excited canvass than that just alluded to has never occurred in any State of the Union. There are some remarkable features about it, which imparted to it at the time that it was in progress peculiar interest. Mr. Bell was a young man, of yet unestablished reputation. Mr. Grundy was a man past the middle stage of life, and of world-wide fame. They were both avowed friends and supporters of General Jackson in the coming Presidential election, but Jackson openly de-

clared his preference for Mr. Grundy over his more youthful and less experienced opponent. Often did the two candidates meet in discussion, and sometimes words were uttered by each of them not altogether comporting with kindness and courtesy. Several of the speeches made by Mr. Bell during this heated conflict are yet referred to often by old residents of Tennessee as masterpieces in what may be called political *digladiation*. The success of Mr. Bell, over such a competitor as Mr. Grundy, at once gave him a high national attitude. When he reached Congress he soon found himself in the midst of a new contest. Mr. Polk and himself were pitted against each other by their respective friends, as candidates for the Speakership of the House, and a bitter political antagonism sprang up between them, which did not sensibly abate for a long series of years. Mr. Polk attained the Presidential station through the election of 1844. Mr. Bell was unsuccessfully run for the same high place in 1860. Mr. Polk served in the office of Governor of Tennessee for a single term; Mr. Bell officiated as a Senator of the United States for two full terms. They are both now dead, and the questions upon which they were arrayed against each other are at rest, perhaps forever. No one now denies to either of these personages many virtues, and abilities of a very high order. They were both men of an eminently conservative turn of mind, and devoted friends of the National Union. I have not heard that either of them had ever made a legal argument of transcendent vigor and eloquence. Neither of them is charged with having spoken, on any occasion, feebly or unbecomingly. Mr. Polk, as a popular speaker, has, perhaps, never had his equal in Tennessee: Mr. Bell occasionally delivered a profound and statesmanlike discourse, which would have done credit to any public man that our country has produced. One of his political harangues, delivered at Vauxhall Garden, in the city of Nashville, during the summer of 1836 (if I recollect aright), made very much such an impression upon the public mind at the time as one would suppose might have been produced by that grand address of Edmund Burke, to the people of Bristol, in defense of his

course in Parliament upon some of the great questions agitated in his day. There is a depth and grandeur, and a lofty and fervid eloquence displayed in certain portions of this speech, which must always awaken the greatest respect and admiration among readers of just taste and of a thoughtful turn of mind. Having the honor of being on exceedingly intimate terms with Mr. Bell in the latter years of his life, I recollect having said to him, in presence of his most intelligent and estimable lady, that I thought this Vauxhall speech by far the best I had ever seen of his composition, and that I had heard much as to its effect upon those who listened to it. He very modestly declared that he had taken more pains in preparing it than he had exercised in any other instance. Mrs. Bell said, with that noble and hearty frankness and freedom from false delicacy which so distinguished her, that there was an anecdote connected with that same speech which she would relate to me, which she did, very much in these words: "I had never seen Mr. Bell until the day on which he addressed the large assemblage at Vauxhall, though I had heard much of him, and sympathized with him deeply as a public man. I listened to the whole of it, with the warmest admiration. When he closed, I whispered to a friend, that though I had never before thought of marrying a second time, I did not know how I should be able to refuse a nuptial offer from such an orator and patriot as I had been just listening to with such unqualified delight. Whether Mr. Bell heard of my commendations of him or not, it is not for me to say; but not many days elapsed before he called to pay his personal respects, and in little less time we became, as you see us, man and wife."

After Mr. Bell's retirement from the Senate he never resumed the practice of law, though I know him to have been repeatedly urged by his friends to do so. President Polk on reaching the elegant home in Nashville, which he had chosen as his place of permanent residence, and where his venerated widow yet resides, at once occupied himself in putting his large law library in order with a view to re-entering upon the toils of the forum. Whilst engaged in this task he was at-

tacked with a malignant disease which in a few days brought him to the end of his brilliant and useful career, and filled all parts of the Republic with the emblems of mourning. The writer of this notice had the honor of delivering his funeral oration in Washington, in presence of a vast concourse composed in part of President Taylor and his cabinet; and what I then said in commendation of this illustrious personage, I could now, after the passing away of nearly a third of a century, sincerely and conscientiously re-utter.

Only a few years previous to the death of Mr. Bell—which event did not occur until about six years ago—there died in the town of Franklin, in Williamson county, one of his nearest relatives and most esteemed friends—the late John Marshall. This gentleman was born within a short distance of the spot where he spent the greater part of his life. He was one of the most quiet and modest of men in his manners and general bearing. No one ever suspected him of being ambitious of public preferment. His temper was kind and gentle almost to a fault. He was open, frank and outspoken about all things, and to all persons. His mind was strong, well-balanced, and active in its movements. He delighted in reading law books, and delighted just as much in reading history, novels, and poetry. His memory was both capacious and retentive. In conversation, and occasionally at the bar also, he was a little sluggish and difficult to rouse. When excited to the proper pitch he conversed with animation and brilliancy, and spoke with a vehement energy and fervid eloquence which alike surprised and delighted all who listened to him. His rise to forensic distinction had been a little slow, but, for about ten years before his decease he was almost universally recognized as one of the best informed jurists and most effective advocates to be found anywhere in the State of Tennessee. Had he lived ten years longer it would have been in his power to reach the highest honors of his profession had he chosen to do so.

Contemporary with Mr. Marshall and of almost equal intellectual excellence, was Andrew J. Ewing. He was born in Nashville, and was there brought up and educated. His

intellectual faculties were of rather a peculiar structure. His perceptive powers were quick and lively; his judgment was solid and accurate; his sensibilities were easily roused, and he had the utmost facility in communicating his feelings to others. He had read much, thought more, and seemed to have an intuitive perception of the characters of those with whom he came in contact, and of their particular motives of action. He was one of the most successful jury-lawyers that Tennessee has known; but in no department of professional life did he show any want of those qualities which command success and lead to permanent fame. Just as the civil war was commencing, he formed a partnership with the distinguished advocate last delineated; but both Mr. Marshall and himself died before their compact of association could be carried into effect.

Thomas H. Fletcher belonged to an earlier generation of attorneys. He had been a merchant in Nashville for some years before he ever thought of practicing or even of studying the science of law. Failing in business he took to the reading of law books from necessity, obtained a license, and became quickly known as a brilliant and effective speaker in jury cases. Mr. Fletcher became widely known in the summer of 1824, as the author of what was called "*The Political Horse-race*," in which he humorously and graphically portrayed the characteristics and conjectured popularity of the presidential candidates of that period, Messrs. Clay, Crawford, Adams, Jackson, and Calhoun. I well remember the merriment awakened in popular circles by this political *jeu d'esprit*, and have always regretted not to have formed the personal acquaintance of its sprightly and amiable author.

Cave Johnson, for many years a member of Congress from Tennessee, and subsequently postmaster-general in the time of President Polk, was for many years a practitioner of law in Tennessee, and has left behind him a high reputation for shrewdness and practical intelligence, for manly energy, and sterling probity. He was too deeply immersed in politics for some thirty years of his active and bustling life, to become an erudite lawyer or a forensic advocate of the highest grade.

One of the most brilliant and versatile men that has ever appeared at the bar of Tennessee was the late Thomas A. R. Nelson. He was a man most richly endowed by nature, and, having in early life been blessed with an excellent education, he had subsequently used all accessible means of cultivating his intellect in all its various departments. His reasoning powers were of a very high order; his imagination was one of uncommon fertility, and easily excited to action; he was capable of the most pungent and telling satire when circumstances were such as to call it into requisition; and he possessed a command of words which was positively marvellous. He very early in life acquired much reputation as a well-informed jurist, and in the field of politics he often shone with a resplendency which awakened the admiration of all who listened to the eloquent speeches to which he gave utterance either in the presence of large popular assemblages, or on the floor of the House of Representatives in Congress. During the short period that he served as one of the judges of the supreme court of Tennessee he delivered a number of opinions which greatly enhanced his fame as a man of extended judicial learning, of a sound and discriminating judgment, and of a refined and polished elocution. The severe sufferings which he had to undergo during the earlier stages of the civil war have been a source of sincere and painful regret to thousands of good and patriotic citizens; but the trials which it was then his lot to encounter presented to him an opportunity of displaying virtues for which he would not, in all probability, have been given credit but for the almost unparalleled tribulations which called them forth. Judge Nelson occasionally amused himself with writing in poetic measure, and several of his brilliant but unlabored effusions, partaking strongly of the Hudibrastic stamp, have in former days afforded no little amusement to the few select friends among whom they were alone permitted to circulate.

Whilst many bright names, not heretofore mentioned, are rising up before my memory, to all of which I should rejoice to pay a fitting tribute, did circumstances admit, I am reluctantly constrained to bring to a termination all I have to say

in this chapter concerning the bench and bar of Tennessee, of the olden times, with a few brief remarks upon two personages, both of whom have been long and favorably known to the American public. Balie Peyton and Henry A. Wise were, a little less than a half century ago, cotemporary members of the Tennessee bar. The former of these gentlemen was a native of Tennessee, whilst the last-mentioned of them was born in Virginia. They met, as I have learned, for the first time in the city of Nashville. Being about the same age and of congenial dispositions, they at once became familiar associates and intimate friends. Nature had been lavish in her gifts to both of them, and at the commencement of their forensic career hosts of admiring friends predicted, both for the one and the other, quite as much of distinction as it has since been their fortune to acquire. Mr. Wise having remained in Nashville only a year or two, returned to the state of his birth, and soon after commenced that brilliant political career which I cannot but hope has not yet terminated. The two friends again met upon the floor of the House of Representatives, and took a leading part in the excited debates which had their progress during General Jackson's most eventful administration. Each of these gentlemen has in his time held high public stations, and has participated prominently in scenes which constitute an important portion of American history. As both are yet surviving, and not at all inclined, as is to be seen from many tokens, to retire altogether into obscurity and inaction, it would not be, for several obvious reasons, very becoming on my part to apply to them the language of formal laudation; and as for each of them I have long cherished sentiments of elevated esteem and cordial friendship, it would be impossible that I could refer to them in language of censure or disparagement. May they both long live, with constantly multiplying honors, and with ever-strengthening claims to the confidence and gratitude of their countrymen!

CHAPTER VIII.

Robert Crittenden.—Chesier Ashley.—Wm. Cummins.—Ambrose H. Sevier.—Absalom Fowler.—Benjamin Johnson.—Daniel Ringo.—Edward Cross.—Thomas J. Lacy.—David Walker.—Frederic W. Tratnall.—J. W. Cocke.—A. H. Garland.—General Albert Pike.

Having resided at several places, not far distant from the borders of Arkansas, during the last fifty years, and having during that period, to a limited extent, participated in judicial trials there in progress, it is with pleasure that I put on record a few particulars connected with the history of the Bench and Bar of that very interesting and now rapidly growing commonwealth. From the adoption of her first State Constitution, Arkansas has been remarkably well supplied with learned and able attorneys, and with respectable and well-informed judges, as the volumes of her judicial reports very satisfactorily attest.

Robert Crittenden located in Arkansas at a very early period. He was a native of Kentucky, and a younger brother of the celebrated John J. Crittenden. In natural intellectual resources he was supposed by many to be not inferior to his distinguished kinsman. He is universally admitted to have been a bold, impressive and able advocate, well informed in everything appertaining to his profession, and especially persuasive with juries. He was an ardent partisan, a dexterous and influential political leader, and possessed a fiery energy of character decidedly bordering on combativeness. He was a full believer in the rules of the duelling code, and, on at least one occasion, had proved his *faith* by his *works* in that perilous sphere of action. I never had the pleasure of seeing Mr. Crittenden but once, and that was under very peculiar circumstances. When I was myself very foolishly engaged in what was then called *an affair of honor* with S. S. Prentiss, a fine-looking gentleman suddenly appeared upon the field, and announcing his name, addressed the parties combating and their seconds for a few minutes in the interests of *pacification*.

This manly and generous effort not proving successful, Mr. Crittenden (for it was he who had thus interposed) withdrew, and I never met him afterwards. This was in 1832, and I believe that he died a few months subsequently.

Chester Ashley was a native of New York. His legal attainments were more than respectable; he possessed a clear and discriminating intellect; evinced more than ordinary shrewdness and sagacity in all business concerns, and succeeded in laying up much money, and in the accumulation of large bodies of well-selected and valuable wild lands. I had the honor of serving with him in the National Senate for several years. He seldom addressed that body, and never except upon questions involving the local interests of his state. He was a man of a pleasing and decidedly impressive aspect, had the appearance of much cordiality, and seemed much disposed to be on agreeable and amicable terms with all whom he met in social intercourse.

The colleague of Mr. Ashley in the Senate was Ambrose H. Sevier. He had obtained a license to practise law, but had left the bar very soon for the more congenial field of politics. He was a man of fine person, and of most agreeable and winning manners. He possessed a strong and penetrating mind; evinced much tact in the management of party concerns, and, had he chosen to be a student of books, might doubtless have attained much distinction. He was decidedly a favorite with his party, and his kind and conciliatory manners gave him general popularity. I never heard him speak at much length; nor did he seem ambitious of oratorical fame; but when he did engage in debate, he always evinced a large amount of native good sense and practical intelligence. He was Chairman of the Committee on Foreign Affairs in the Senate, when the Mexican Treaty of Guadalupe Hidalgo was submitted to that body for ratification, and was very efficient in procuring for it the sanction of his brother Senators. He was despatched by President Polk to the City of Mexico, in order to secure the acquiescence of the Mexican Government in the amendments affixed by the Senate to the treaty, and, in connection with the present Justice Clifford (who was

united with him in this important commission), succeeded in obtaining the desired object. Colonel Sevier died very soon after his return to the United States.

William Cummins emigrated from the State of Kentucky to Arkansas. He obtained much respectability as a lawyer, having a mind of much quickness, and habits of untiring industry; but was not regarded as at all a profound jurist.

Absalom Fowler was also a Kentuckian by birth, as I have been informed. He was not wanting in legal attainments, and possessed a mind of a decidedly practical cast; but he had no claims to be regarded as an orator, having a harsh and grating voice, and a disposition but little turned to conciliation.

The Honorable Benjamin Johnson was for many years a most efficient and satisfactory Judge of the superior courts of Arkansas, and afterwards officiated, for a considerable period, and in a most creditable manner, as a United States Judge. He was a man of many social and domestic virtues, and has left behind him a high and spotless character. He was born in Kentucky and was brother to Richard M. Johnson.

Daniel Ringo, a Kentuckian also, is remembered chiefly as a lawyer thoroughly versed in the forms and technicalities of the profession.

The Honorable Edward Cross was a highly respected territorial judge.

Judge Thomas J. Lacy I had the pleasure of knowing well. His ability as a judge was universally admitted, and the accuracy of his decisions was such that, during a long period of service on the bench, no opinion of his was ever overruled. He was a gentleman of great urbanity, and the delight of all social circles.

David Walker, who is yet engaged in the performance of official duties, has served for the greater part of his life as a judge, and is a man of much ability, well versed in his profession, and of most unexceptionable manners and character.

Frederic W. Tratnall and John W. Cocke are yet kindly remembered and greatly respected by the early residents of

Arkansas. I had not the pleasure of knowing either of them; but I have heard, in past years, much both of their professional learning and their general literary attainments.

With the present renowned governor of Arkansas, A. H. Garland, I have held the kindest and most confidential relations for many years. It has been nearly twenty years since I first met him at the bar of Arkansas, and learned to appreciate his many noble traits of character, his industry and ability as a lawyer, and his inflexible devotion to principle. The high moral courage, the commingled energy and wisdom, and the wonderful tact and adroitness displayed by him, during the last two years, in the very difficult and responsible position which he has occupied, have secured to him a solid and enduring fame which few men of the present generation have acquired. He is still young, not being yet beyond the prime of life, and has, I trust, many years of honorable usefulness before him.

I have now to speak of one whom I have known for many years most favorably, and whose reputation is diffused throughout this continent. General Albert Pike is a native of the state of Massachusetts, and of a most respectable lineage. His early education was by no means neglected, but was of a singularly miscellaneous character. He has been, from boyhood, passionately fond of books, and is the owner, at the present moment, of one of the largest and best selected private libraries to be found on the continent, and with the contents of every volume contained therein he is most familiarly acquainted. He is thoroughly versed in several of the ancient languages, and there are but few of the modern tongues of which he is ignorant. He has been much devoted, for many years past, to what is known as comparative philology, and has written several volumes on that subject which, should they be ever published, will, I doubt not, at once secure him a European fame such as few native-born Americans have been yet able to attain. He has also written quite voluminously upon the learning of his own profession, which he has not chosen though, thus far, to give to the public. His mind is one of uncommon strength and

versatility; he writes with elegance and vigor; speaks with marked earnestness and force, and is the author of many beautiful poems, which thousands of his admiring friends have read with exquisite entertainment and delight. General Pike is reported to have mastered all the arcana of free masonry, and has long enjoyed a very high rank in that ancient and venerated order.

He migrated from New England in 1831, and sojourned for some time in New Mexico. In 1832 he removed to Arkansas and located for the practice of his profession at the Post of Arkansas. There he met a gentleman destined to become the wealthiest citizen of St. Louis. The late James H. Lucas was then also a member of the bar, a justice of the peace and county judge, and had the honor, in the latter capacity, of marrying General Pike and his still surviving wife. The General removed to Little Rock in 1833, and became most extensively engaged in the exercise of his chosen profession. Though an ardent devotee of the Federal Union, when the late civil war broke out, he promptly enlisted in it, and but for the grossest and most cruel injustice and illiberality put in practice toward him by high official personages, not necessary to be here named, would doubtless have gained much reputation as a military commander. At the termination of the war he located in the city of Memphis, where he remained until invited to give his professional attention to several cases of great magnitude and complexity pending in the courts of Washington, when he removed thither, and is now delightfully domiciled in the neighboring town of Alexandria, whence he comes every day or two to his professional office at the capital. As the General is still living I shall say nothing of his majestic person, his cordial and winning manners, or his deeply instructive and highly entertaining converse in hours of social relaxation. I take the liberty of subjoining a poem written by General Pike many years since, which, I am sure, will be read with pleasure by all who have a true relish for the beautiful and touching in this species of composition.

THE WIDOWED HEART.

*Lachrymæ pondera vocis habent.
Tristis eris, si solus eris : dominæque relictæ
Ante oculos facies stabit, ut ipsa, tuos.*

Thou art lost to me forever!—I have lost thee, Isadore!
Thy head will never rest upon my loyal bosom more;
Thy tender eyes will never more look fondly into mine,
Nor thine arms around me lovingly and trustingly entwine,—
Thou art lost to me forever, Isadore!

Thou art dead and gone, dear loving wife, thy heart is still
And cold,
And mine, benumbed with wretchedness, is prematurely old:
Of our whole world of love and joy thou wast the only light,
A star, whose setting left behind, ah me! how dark a night!—
Thou art lost to me forever, Isadore!

The vines and flowers we planted, Love, I tend with anxious
care,
And yet they droop and fade away, as though they wanted
air:
They cannot live without thine eyes to feed them with their
light;
Since thy hands ceased to twine them, Love, they cannot
grow aright;—
Thou art lost to them forever, Isadore!

Our little ones inquire of me, where is their mother gone,—
What answer can I make to them, except with tears alone?
For if I say, "To Heaven," then the poor things wish to learn
How far it is, and where, and when their mother will return;—
Thou art lost to them forever, Isadore!

Our happy home has now become a lonely, silent place;
Like Heaven without its stars it is, without thy blessed face:
Our little ones are still and sad;—none love them now but I,
Except their mother's spirit, which I feel is always nigh;—
Thou lovest us in Heaven, Isadore!

Their merry laugh is heard no more, they neither run nor
play,

But wander round like little ghosts, the long, long summer
day :

The spider weaves his web across the windows at his will,

The flowers I gathered for thee last are on the mantel still ;—

Thou art lost to me forever, Isadore !

Restless I pace our lonely rooms, I play our songs no more,

The garish sun shines flauntingly upon the unswept floor ;

The mocking-bird still sits and sings, O melancholy strain !

For my heart is like an autumn cloud that overflows with rain ;

Thou art lost to me forever, Isadore !

Alas ! how changed is all, dear wife, from that sweet eve in
spring,

When first my love for thee was told, and thou to me didst
cling.

Thy sweet eyes radiant through their tears, pressing thy lips
to mine,

In our old arbor, Dear, beneath the over-arching vine ;—

Those lips are cold forever, Isadore !

The moonlight struggled through the leaves, and fell upon
thy face,

So lovingly upturning there, with pure and trustful gaze ;

The Southern breezes murmured through the dark cloud of
thy hair,

As like a happy child thou didst in my arms nestle there ;—

Death holds thee now ferever, Isadore !

Thy love and faith so plighted then, with mingled smile and
tear,

Was never broken, Darling, while we dwelt together here :

Nor bitter word, nor dark, cold look thou ever gavest me—

Loving and trusting always, as I loved and worshipped thee ;

Thou art lost to me forever, Isadore !

Thou wast my nurse in sickness, and my comforter in health,
So gentle and so constant, when our love was all our
wealth :

Thy voice of music cheered me, Love, in each despondent
hour,

As Heaven's sweet honey-dew consoles the bruised and
broken flower ;—

Thou art lost to me forever, Isadore !

Thou art gone from me forever ;—I have lost thee, Isadore !
And desolate and lonely I shall be forevermore :

Our children hold me, Darling, or I to God should pray
To let me cast the burthen of this long, dark life away,

And see thy face in Heaven, Isadore !

CHAPTER IX.

Edward R. Livingston.—Mazereau.—Davezac.—Carleton.—Mr. Henning.—Judge Workman.—General Ripley.—Charles Conrad.—John R. Grimes.—Contest between Grimes and Prentiss.—Pierre Soulé—John A. Slidell.—Seth Barton.—Louisiana Bench.—Judge John A. Campbell.

By far the most important measure of Mr. Jefferson's memorable administration was unquestionably the acquisition of Louisiana. The advantages of various kinds which flowed, either directly or indirectly, from this amplification of our national domain, admit not of anything like a precise and accurate specification, and, were this even possible, certainly this is not the proper occasion for the setting of them forth in entirety, or for the specification of any particular class or portion thereof.

The incorporation of so large a number of people as then inhabited the extensive region purchased from Napoleon the First into our own national family, speaking as they did the language of Spain or France, and possessing civil institutions totally unlike our own, and social habits and usages equally dissimilar, was, to say the least, a bold and hazardous experiment of statesmanship. From the earliest settlement of Louisiana, the civil law prevailed there; the titles to landed estate were drawn up exclusively in the French or Spanish language; both legislative and judicial proceedings were recorded therein; and few or none of the distinctive principles of the common law of England had been yet introduced. Indeed, even at the present moment, the jurisprudential system of Louisiana has far more resemblance to that of France or Spain than to the laws prevailing in any of the other states or territories of the American Union.

If there were any very learned jurists residing in the city of New Orleans during the first years of the present century, their fame has certainly not come down to men of the present generation; but the condition of affairs in this delightful and attractive locality was such as to hold out strong inducements to enterprising Americans of every class to migrate thither; and in a very few years the Crescent City became filled with wealthy merchants, accomplished members of the bar, learned and skilful physicians, and artisans and laborers of almost every description possible to be mentioned.

Among these were some men whose fame is destined to live as long as this great republic shall itself continue to stand.

Perhaps the highest rank at the bar of Louisiana, in the earlier days of that respected commonwealth, should be accorded to Edward R. Livingston. This gentleman had represented his native state in the Congress of the Union, and officiated as mayor of the city of New York, before his settlement in New Orleans. He was a gentleman of most varied attainments, and had thoroughly mastered the learning appertaining to every branch of his profession, before his removal to the Southwest. Here he immediately obtained the most extended employment as a barrister, and is understood to have accumulated a large fortune. His subsequent career as a member of the National Senate, one of President Jackson's Cabinet, and as a Minister abroad, is familiar to all intelligent citizens. His speech upon the Force Bill, as it was called, in 1832, must ever be regarded as one of the most remarkable specimens of parliamentary eloquence, and of patriotic and consummate statesmanship, that our country has ever yet known. His admirers have gone so far as to claim for him the authorship of President Jackson's famous proclamation, addressed to the people of South Carolina. It is certain that he was consulted by that venerable man in regard to the questions so ably and eloquently discussed therein, previous to its emanation, and it is not improbable that Mr. Livingston supplied the constitutional argument which it contains, supervised the whole document, and imparted to it that high literary polish and refine-

ment which eminently distinguish it. I have heard it said that Mr. Livingston, in the latter part of his professional career, declined the giving his advice as an attorney in any case where the party who solicited his professional aid could not afford to pay a fee of five hundred dollars. He is reported never to have spoken in court, except upon the fullest preparation, and to have been always more remarkable for force, clearness and precision, than for grace, declamatory power, or delicate and soul-moving pathos.

I have repeatedly heard Mr. Mazereau in the courts of New Orleans. His person was grave and impressive. His voice was strong and sonorous. The expression of his face was singularly indicative of profound self-esteem, and disdain of opposition. He was far too much given to dogmatism to practice conciliation, and he sometimes yielded to his fiery and impulsive nature to an extent that was not a little startling to men of a more sober and sedate temperament. He claimed a very high place in the ranks of scholarship and general science, but it was whispered in certain circles where I was formerly conversant, that his erudition was not by any means as extensive as that of many of his less assuming compeers.

I knew Mr. Davezac well, but only in social circles. There he did not shine conspicuously—being not a little coarse and obscene. His face, in which a geniality bordering on sensualism habitually sparkled, brought to my mind always the idea of a *satyr*, and there was in it an appearance of cunning and insincerity not a little disagreeable to behold. He had the credit of speaking with uncommon fluency, and of being quite effective in jury trials calling for ridicule and invective. I believe that he was never regarded as a deeply read lawyer or a man of more than ordinary literary culture.

Mr. Carleton, his brother-in-law, was a person of great gentleness of manners, and was reported to have given far more than ordinary attention to the books of the civil law. He translated in a very satisfactory manner at least one valuable civil law treatise from the Spanish into the English language. He was much beloved in social life, and left be-

hind him a reputation for integrity of which any man might have been justly proud.

Mr. Henning, when I first saw him, in the year 1828, was apparently, between forty-five and fifty years of age. He had quite a full suit of hair, which had already become quite gray. He seemed to be in the enjoyment of abundant health; had a hopeful and serene expression of countenance, and his manners, both at the bar and in social life, were singularly bland and captivating. He possessed a large and lucrative practice; was acknowledged to be thoroughly skilled in the business of his profession, and spoke with equal fluency in the French and English languages. His reputation for morality was unblemished, and he was said to be exceedingly uniform in the performance of his duties as a member of the church. This gentleman had in the early part of his career exercised the legal profession in Nashville, Tennessee, where there are still surviving several citizens who cherish a pleasant recollection of him.

Judge Workman was still living in 1828, and seemed to be enjoying the most robust health. He was a Northern man by birth, and came to the Southwest with Colonel Burr, as one of his most trusted associates. When Burr's famous expedition into the adjacent Mexican provinces failed, Judge Workman located as a member of the bar in the City of New Orleans. Here he had prospered very highly, and had become surrounded with almost innumerable friends. I am sure that I never beheld a face upon which the signs of inward benevolence and integrity were more impressively stamped than upon his. The first occasion upon which my attention was specially attracted to him I shall never cease to recollect. I was walking along one of the most crowded streets in New Orleans when I saw General Ripley (then also a practitioner of law in that city) approach Judge Workman when the latter was advancing from a different direction. No sooner did they recognize each other than they quickened their steps, and in a few seconds actually almost ran into each others arms; each extending his right hand with most affectionate eagerness, seizing that of the other, and holding it

tightly grasped for some time, gazing all the while kindly upon each other, and conversing, both of them apparently unmindful of all that was going on around them. I was so much interested in this scene that it was with some difficulty that I was able to withdraw from the sight of it, until it should be brought to a termination.

I have incidentally mentioned General Ripley as connected with the bar of New Orleans in the year 1828. I had the pleasure of hearing him address the court more than once at this period. He gave evidence of possessing a mind of far more than ordinary vigor and sprightliness, and professional attainments of a very respectable grade. He was certainly though by no means distinguished for oratorical power, and I should conjecture that he was blessed with powers of persuasion not above mediocrity. His figure was tall and commanding; he was robust without being fleshy; had a fresh and ruddy complexion; auburn hair; keen and piercing blue eyes, and a nose decidedly aquiline in shape. He had received a severe wound in the neck in one of the battles on the Canadian frontier, during the war of 1812-15, whereby the muscles there located had been much stiffened, rendering it difficult, and even a little painful to hold the head except in a perfectly erect posture. This circumstance gave rise among strangers to the suspicion that he was haughty and austere, which was indeed very far from being the case. General Ripley was in his latter days a representative in Congress from the State of Louisiana, and, whilst in Washington, sustained a standing of which no man need have been ashamed.

In 1828 he was practicing law in connection with Charles M. Conrad, then a very young man, but giving the most gratifying signs of future professional distinction. Mr. Conrad, after many years of severe and successful professional labor, was elevated to the National Senate about the year 1841, was subsequently secretary of war during the administration of President Fillmore, and in 1861, was a member of the Confederate Congress, where he showed himself to be a most sensible, moderate, just-minded, and truly conservative legislator.

When the gentleman just mentioned was elected to the Senate, the celebrated John R. Grimes was an opposing candidate. This personage seems to be entitled to a somewhat extended notice. I knew him well, and shall endeavor to describe him impartially. Colonel Grimes was a native of Orange county in the State of Virginia, and grew up to manhood under influences exceedingly favorable to the full development of such intellectual faculties as nature had bestowed upon him. He had scarcely reached the age of maturity when he resolved to leave the venerated state of his birth and to seek fame and fortune in the far Southwest. Before locating himself though permanently, he travelled very extensively through the most attractive portions of Mexico; after which he came to New Orleans, and joined an elder brother who was then holding a respectable official position in that city. In a few months, he prepared himself for entering upon the practice of the law, and quickly attained a very high rank as an advocate. In process of time he achieved such a reputation for learning and ability as few men have enjoyed in any part of the Republic. /

John R. Grimes had been singularly favored by nature, both in regard to his physical and mental attributes. He was tall, well proportioned, and of an air and carriage in the highest degree prepossessing. His face beamed with intellect; his eye impressed the beholder with mingled respect and sympathy; his voice was clear, sonorous, and perfectly modulated; his gesticulation was simple, graceful and winning. He seldom spoke above the conversational tone, never indulged in harsh and boisterous declamation, or in extravagant and high-flown figures of speech. He made no elaborate effort to display his learning, or claimed to be wiser than those with whom he held social intercourse. Any approach to pedantry was, to his just and well-regulated taste, supremely disgusting. Those who dealt in unmeaning mysticism, or who sought an ephemeral glory by paradoxical assertions, never gained a patient audience from him. He seldom quoted from books of any kind merely for the sake of ornament, and preferred plain, idiomatic English words to

the most euphonious and pompous phrases from some foreign tongue. His absolute self-possession, when addressing either court or jury, awakened a placid feeling of admiration and deference in all who listened to him. He was uniformly sedate, unaffected, courteous and obliging in his demeanor; words of coarse revilement or of fierce denunciation never found utterance from his lips. He employed none of the tricks and devices of false rhetoric. As a logician it is doubtful whether any one superior to him has appeared in the forum since the days of Tacitus and Pliny. His facility of oral enunciation was truly marvellous. He had mastered all the complexities of the Common Law of England; and there was no department of the jurisprudence of the Romans with which he had not made himself familiar. It is confidently believed that there is scarcely a standard book in English literature which he had not perused and digested; and the Greek and Roman classics he had read and re-read until all the precious treasures which they contain had been made a portion of his own private property, and all the beauties, both of sentiment and expression, which render them so attractive and enamouring, had been safely laid away in the recesses of his own surprisingly retentive memory, to be reproduced with undiminished splendor and effectiveness when some suitable occasion should call them forth. Whenever drawn out in colloquy, as oftentimes he was, he really seemed, like Mr. Webster, to have read all that had been printed; to have been a recipient of all useful or entertaining traditionary lore, and to be ignorant of nothing suited to strengthen the mind of man or chastely to adorn it. A keener and more profound observer of human life I do not expect to meet. He was able to adapt himself without apparent effort to all the classes of society with which the accidents of his varied and somewhat eccentric career, of necessity, brought him into association, and he as seldom gave offense in his intercourse with mankind as any individual that can be mentioned. In conversation he was ready, instructive and entertaining, and occasionally related anecdotes with a serene and quiet facetiousness which those who listened to

him found it difficult to forget. Such rare abilities and such shining accomplishments did not fail to awaken envy in some, and incite others to illiberal and malevolent strictures. It would have been, indeed, surprising had such a man escaped calumny, since we all well know that

He who *surpasses* or subdues mankind,
Must look down upon the *hate* of those *below*.

He was, whilst yet living, freely charged with being a libertine and thousands who only heard of him at second hand adjudged him guilty of sensualism and immorality in their worst and most degrading forms, just as Lord Somers, the illustrious British chancellor, had been more than a century before. That Colonel Grimes was not exactly a *puritan*, either in his religious creed or in his habits of life, is altogether certain; and that he displayed a keen relish for several indulgences not by any means in consonance with the lofty aspirations which he cherished and the elevated social position which he held, it would be dishonest to deny. But I am confident that there was no period of his life in which he was addicted to habitual excesses of any kind, of a nature calculated to degrade or enfeeble his intellectual faculties, seriously to diminish his dignity as a leading and influential member of society, or to impede his progress in knowledge. He maintained his ascendancy at the bar so long as he continued in life, and some of his latest forensic efforts are acknowledged to have been his best. Colonel Grimes, whilst he always placed a due estimate upon the opinions of the more enlightened and upright of his own day and generation, is known to have had little respect at any time either for the commendations of the shallow and superficial, or the praises of the dissolute and corrupt. He was perhaps less a seeker of what is called popularity than any public man of his time. He was scarcely ever known to speak in reference to his associates or cotemporaries in terms either of decided laudation or of unqualified censure. No man was ever more indifferent to the verdict of coming generations upon himself or aught that appertained to him, than was this

singularly constituted individual, and the huzzas of the promiscuous and often ill-judging populace had no music for his ear or inspiration for his well-regulated soul. He was far, indeed, from being a misanthrope, and had seldom if ever shown that he could retain in his lofty and heroic bosom the ignoble and debasing sentiment of bitter personal hate. Though not at all unkind and repulsive in his manners, and not by any means neglectful of the obligations of personal friendship, it is doubtful whether he ever had a half-dozen perfectly *confidential* friends at any period of his career. I am quite satisfied that had he known himself to be ever so cruelly calumniated by the ordinary newspapers of the country, he would not have been deprived of the smallest portion of that sublime composure of spirit in which he luxuriated so unbrokenly, or of that lofty and somewhat austere self-respect which he felt to be securely bottomed upon a thorough knowledge of himself, his attributes and his capabilities.

In the evening of life, and only a year or two previous to his decease, he was brought for the first and only time into a conflict at the bar with the celebrated S. S. Prentiss, in a case of the greatest magnitude and difficulty. James Erwin, for many years one of the most influential citizens in New Orleans, who had been at one time reputed to be very wealthy, and who, moreover, was son-in-law to the illustrious Henry Clay, was the defendant in a suit which deeply involved both his estate and character. He stood charged with pecuniary fraud of a peculiarly dishonoring nature. Mr. Prentiss had been employed to conduct the prosecution; Mr. Grimes appeared for the defense. The trial attracted a vast assemblage, and the public curiosity was intensely roused. Two such combatants had never before met upon that arena. Two men more strikingly contrasted to each other in several important respects could scarcely be imagined.

In justice to Mr. Prentiss, it should be mentioned that, at the time of this celebrated encounter, he was in a wretched physical condition. His health had been undermined by causes the destructive power of which no human constitution has ever been able to withstand. Pecuniary troubles, too, had

gathered about him, of a most depressing and paralyzing character. Dire necessity had forced him to leave the State of Mississippi, where he had so long resided, and where he was yet so loved and honored by a generous and appreciative population, for some new and more propitious theatre where his extraordinary abilities might find ample and multiplied opportunities for display. His nervous system had been seriously disturbed. He had to some extent lost that control of his temper so necessary to complete success in all the more important undertakings of life. He spoke on this occasion with far more than his accustomed fervor and vehemence. His imagination displayed itself with all that marvellous grandeur and gorgeousness which had given to him so large a portion of his oratorical fame. He was humorous; he was witty; he was bitterly sarcastic. His denunciatory potency was such as both to astonish and electrify. In the highest state of excitement, he forgot himself so far as to utter reproachful and insulting epithets, which the facts in proof did by no means justify. He closed with one of the most thundering and soul-rousing perorations which ever was heard in a court-house. He had made a wondrously eloquent speech; but, so far from having gained a victory worthy of his high reputation, he had only opened to his veteran and perfectly self-balanced antagonist an opportunity, in one short half hour, to respond triumphantly to all his utterances, and to impress conviction upon the minds of those in hearing, of the gross injustice with which his client had been treated, and of the vast superiority in all forensic contests of moment, of cold and passionless logic—set off and embellished with a show of perfect good nature, the appearance of sincerity and conscientiousness, and a charming complaisance of manner—over all the splendors of unregulated genius—deformed and enfeebled by misplaced declamatory energy, and overstrained efforts to excite, to dazzle, and to delude.

Of all the advocates that New Orleans has known, next to John R. Grimes was unquestionably Pierre Soulé. I heard Mr. Soulé address a mixed French and English jury in New Orleans, nearly fifty years ago, with a brilliancy and effective-

ness which I have seldom known surpassed. He spoke most felicitously, both in his native tongue and in that of his adopted country. It was evident that his education before leaving France had been faithfully attended to, and that, after reaching this country, he had neglected no opportunity of improving his intellect and ripening his literary taste. In person he was supposed strikingly to resemble the elder Napoleon. He was a gentleman of the greatest affability; noble and elevated in all his sentiments; of a most generous and enthusiastic nature, and eminently calculated to acquire friends and to command confidence in any enlightened and well regulated community. He had much reputation for general scholarship, and was supposed by those who knew him best, to be by no means deficient in legal learning.

Judah P. Benjamin is said to be a native of the Island of St. Thomas. He practised law for many years most successfully in the city of New Orleans. His person is not at all prepossessing, and his manners are lacking both in modesty and gentlemanly refinement; but in the discussion of a strictly legal question his excellence is positively beyond criticism; and he writes with a beauty, chasteness and vigor, of which Lord Mansfield himself might be justly proud. His professional attainments are of a high order, and in knowledge of general literature he is inferior to but few of his cotemporaries.

John A. Slidell was for many years associated with Mr. Benjamin in the practice of law; and these gentlemen published, under their joint names, many years since, a digest of the judicial decisions of Louisiana, which has been regarded as a work evincing much intelligence and judgment. Mr. Slidell, whom I chanced to know very well, was a man of singular vivacity of temperament, exceedingly astute and dextrous in dealing with men of all classes, and strongly suspected of not being over-scrupulous in the use of means adapted to the attainment of his coveted objects. He conversed with ease and sprightliness, made no professions of special political purity, evinced the utmost pertinacity in the pursuit of his various projects, and often avowed, in connection with public affairs, motives of action such as ordinary

politicians, if swayed by them, deemed it expedient to conceal. He was not at all blessed with the higher powers of eloquence, and neither at the bar nor in Congress was recognized as anything more than a mediocre speaker.

Seth Barton was a native of Virginia and belonged to a large and influential connection. No little attention was paid to his early education, and he evinced signs of intellectual promise ere he left the neighborhood of his birth, which caused many to predict his future distinction. I first knew him as a leading member of the Alabama bar, and an eloquent and influential member of her state legislature. After this he became a candidate for the House of Representatives in Congress, and delivered a number of popular addresses in that character, which I well remember to have been greatly admired and lauded at that period. He removed to the City of New Orleans in the winter of 1831, where he remained for many years, and where he attained much reputation both as an advocate and a political writer. His mind was not remarkable for quickness or agility, but in solidity and strength of reasoning he was excelled by few of his competitors for forensic fame. He was profoundly versed in the principles of the English common law, and he is one of a very few persons whom I have known to take delight in the ancient black-letter authorities, and to be enthusiastic in his admiration of the darkest and most complex chapters of Coke upon Littleton. His physical frame was one of uncommon vigor; he was not a little distinguished for personal bravery, and he possessed such a manly and independent soul as rendered it impossible that he should stoop to the practice of servility, or resort to low and oblique expedients for his own advancement. His powers of condensation were such as caused him often to be warmly commended by those who listened to him in cases of importance and difficulty; but yet, strange to say, he, like Mr. Burke, sometimes spoke at such prodigious length, and with such copiousness of illustration, that his hearers were painfully fatigued with his masterly but tedious utterances.

Mr. Barton was called by President Polk to officiate as

solicitor of the treasury, in which position he conducted himself in a manner so satisfactory, that he was in a few months sent to Chili as minister plenipotentiary to that Republic. On his return he wrote a number of able and earnest articles for the Washington newspapers in opposition to the compromise measures of that period, which, though marked with his accustomed ability, did not add at all to his popularity, and were in truth not very extensively read.

Having been a practitioner of law for some time in the City of New Orleans, and in several of the northern parishes of Louisiana, I had an opportunity of being a good deal in various courts of the state, and of forming more or less acquaintance with a considerable number of those engaged in the discharge of judicial functions. Were I to take it upon myself to pass upon the comparative merits of such personages as Martin and Porter, Bullard and Eustis, and their learned and venerated *confrères* of the bench, I should be justly regarded as not a little presumptuous and immodest. The opinions delivered by them, running through a long series of years, upon questions of the utmost dignity and moment, have long since gained the highest consideration and respect among the most renowned juris-consults both of America and Europe. I cannot consent though to overlook the fact that the judges of Louisiana when I had an opportunity of knowing them familiarly, were quite as much distinguished for their sterling integrity, their lofty patriotism, and their gentlemanly urbanity and refinement as for their erudition and intellectual profundity. I can recollect only one instance of marked deviation from the pathway of honor among the grave dispensers of justice in this once prosperous and happy commonwealth, and the prompt reprobation and disgrace inflicted upon the offender in this instance, with the hearty consent of his official associates, and the universal approval of all good citizens, render even this solitary case of flagrant dereliction, almost as much a subject of gratulation as of censure and lamentation.

There are many bright names upon the roll of attorneys in Louisiana, the mention of which, in this cursory and im-

perfect review, I find myself compelled to pretermit. But there is one illustrious individual yet surviving upon whose career and character I feel inclined to offer here a few observations. I allude to the Honorable John A. Campbell, formerly one of the associate justices of the Supreme Court of the United States. This gentleman is a native of Georgia. His father was many years ago well known as an eminent jurist in that state. Judge Campbell located in the City of Mobile when yet a very young man, and there quickly rose to distinction. When elevated to a seat upon the bench of the highest judicial tribunal known to our constitution and laws, his great and universally acknowledged abilities at once attracted to him the general admiration of his countrymen. His juridical learning has never been disputed. His mind is at once active, penetrating, of marvellous expansive energy, of the firmest and most comprehensive grasp, and he is endowed with a clearness of conception and a subtle astuteness of discrimination, which completely set at defiance all the arts of sophistical deception, and all the efforts to substitute passion and prejudice in the place of reason and justice. Some of his dissenting opinions, in cases of great celebrity, and with which the public is already quite familiar, will be read both with respect and gratitude long after the lips from which they emanated shall have been closed in death. I shall ever recognize it as one of the most deplorable events in American history that Judge Campbell was induced, either by the taunts of enemies, or the injudicious persuasions of excited friends, to resign the judicial position which he so highly adorned, and where his influence for good would have been so unquestionable. Had he continued in the performance of the high duties appertaining to his station, many golden opportunities would doubtless have been presented to him of *mediating* between his estranged and warring countrymen, by taking advantage of which he might have efficiently contributed to the correction of existing misunderstandings upon exciting sectional questions, the cessation of profitless and ruinous hostilities, and that dreadful accumulation of evils of almost every description which was after-

wards to ensue, and from which the country has not by any means yet altogether recovered. When I saw this highly endowed and eminently disinterested and patriotic man, for many long and dreary months, patiently and quietly performing the duties of a subordinate position in the War Department at Richmond, under the supervision of men who, compared with him, were mere pigmies in intellect, I could not help mentally recurring to the noted case of Epaminondas, in the olden time, who was insultingly sentenced to sweep the streets of Thebes as a meet reward for public services which all the wealth and honors in the gift of his stupid and inappreciative countrymen would have been able but poorly and inadequately to requite.

CHAPTER X.

MISCELLANEOUS FACTS.

Godfrey Fogg, Senior.—Ephriam H. Foster.—Neill S. Brown.—Judge McKinney.—Judge Robert L. Caruthers.—Henry G. Smith.—John A. Nooe.—Edwin Yerger.—Henry T. Ellett.—Emerson Etheridge.—Treasurer Graves.—The Anti-Gallon Law of Mississippi.—Its Faithful Enforcement and Beneficial Effects.—Its Repeal, and the Evils Resulting Therefrom.—John J. Ormond.—David Ligon.—Peter Anderson.—James Deavenport.—Joseph E. Davis.—George W. Paschal.—Armisted Burwell.—William L. Yancey.—James C. Mitchell.—J. L. Alcorn.

Just as I was writing the closing words of the last chapter, I received intelligence of the decease of a long valued professional friend, of whose character and career as a member of the Tennessee bar I propose at this moment to take a brief notice.

Godfrey Fogg, Senior, was a native of New England, and had there received a liberal education. He located at Nashville, some years subsequent to his elder brother—elsewhere in this work favorably noticed by me—and almost immediately became possessed of a paying practice. In connection with the late Ephriam H. Foster, he enjoyed a large collecting business, in which he conspicuously evinced all the qualities needful to success in that branch of his chosen profession. Mr. Fogg possessed few of the graces of oratory, but he always displayed in his speeches in court soundness and vigor of intellect; a thorough knowledge of the case which he was arguing, an adequate fund of legal erudition, and the utmost serenity of temper and courtesy of manner. He lived and died without a spot upon his reputation as a man, and his sudden and unexpected decease has left a chasm in society difficult to be supplied. Just four months ago, I was conversing with this sociable and communicative gentleman concerning a number of his professional associates of former years, and it is with pleasure that I acknowledge myself indebted to him for a considerable number of the most striking facts which I have heretofore detailed.

I had the honor of knowing Ephriam H. Foster personally, but not very intimately. He was a man of most commanding person, of most winning manners, and of exuberant animal spirits. It was almost impossible to know him and not to love him, and his name will continue to be remembered with affection and esteem among all those whose good fortune it was to be thrown into social intercourse with him. He was a man of high courage, of the utmost frankness and liberality of temper, and of consummate tact in the management of men. He was for many years a leading and influential politician in Tennessee, and, during his short period of official service in the national Senate, commanded alike the affectionate esteem and confidence of his own party allies, and the cordial regard of those with whom he was thrown into conflict. Mr. Foster could scarcely have failed to attain the highest rank in every department of his profession, had he not been persuaded to enter the political field, and to devote himself somewhat more than is customary among the eager seekers of forensic eminence to the more congenial pursuits of social life, for which he was so transcendently fitted.

A gentleman is still residing in the city of Nashville and engaged in the practice of his profession as a lawyer, who has such peculiar claims to the public regard, alike as an eminent member of the bar and otherwise, as to deserve more than a passing allusion, especially at the hands of one who has so long loved and honored him as I have done. Neill S. Brown, in many important respects, is undoubtedly one of the most marked and interesting persons of the present age. His early education was not as complete as would have been desirable, but it was sufficient to supply an ample foundation for that superstructure of general knowledge which many years of successful diligence have enabled the subject of this notice to acquire. A readier or more showy speaker than ex-Governor Brown is nowhere to be found upon this continent. He is endowed with a lively and fervid imagination, chastened by laborious self-culture and judicious training. His perceptive powers are of a very high grade, and he is by no means deficient in logical clearness and force, though his rich and

brilliant thoughts are not always methodized and presented in an orderly manner, in accordance with the stricter maxims of the schools, and render him a little more discursive at times than modern courts of justice are inclined to approve. He is most respectably informed in the various departments of his chosen profession, and there are but few branches of knowledge, either theoretical or practical, to which he has not given more or less attention. He has been long renowned as a popular debater, and in several of the political canvasses in which he has been formerly engaged, is remembered to have displayed controversial powers such as commanded respect and commendation far beyond the limits of Tennessee. He has the happiest command of his own temper, in the midst of the most heated political contest, and possesses a promptitude and felicity in repartee which give him a great advantage over any slow and drowsy antagonist. A finer model of serene and gentlemanly urbanity in private intercourse it would be difficult to find. This well-known personage has in former days held various important official positions, both under State and under Federal authority, in all of which his conduct has been such as to secure general respect and commendation. Tennessee has no surviving son of whom she should be more justly proud; for, in addition to his long-continued public services, his devoted patriotism, and his sage and unswerving patriotism, he has given to the world such an example of virtue in private and social life as has caused more than one of his contemporaries to compare him to Scipio Nasica, who was adjudged by the Roman Senate and people to be the *best citizen* of that renowned republic. To Governor Brown, more than to any one individual whom I could now name, is the State of Tennessee indebted for her present civil quietude and the general diffusion of that spirit of amity and confraternity which so nobly distinguishes her people.

The recent decease of Judge McKinney, who was for so many years a distinguished justice of the Supreme Court of Tennessee, has suggested to my mind the propriety of speaking briefly in commemoration of his many virtues and official

services. Judge McKinney was born in Ireland; but the whole period of his mature manhood was spent among the romantic and healthful hills and valleys of East Tennessee. His arguments at the bar were always remarkable for their logical force and precision, their singular and commendable perspicuity, their freedom from all circumlocution or mere parade of words, and were occasionally tinged with something approaching to sarcasm and irony. On the bench he was diligent, pains-taking, and unrelaxing in his labors, as his reported opinions so satisfactorily attest. He was accused of being occasionally a little too stern and austere in his demeanor towards the members of the bar, and was, as I should judge, not a little inclined to constrain attorneys to avoid everything at all approaching to a superfluity of illustration. I am told, and believe it to be true, that the Judge on one occasion found, in his effort to circumscribe discussion, that he had exposed himself to a wordy infliction which he had not at all anticipated, and of which he could not decently complain. A very worthy barrister, now residing in Nashville, and who was really not at all inclined to be overtroublesome to the court, was one day discussing a somewhat complex land case in the Supreme Court, when Judge McKinney, fearing that he might become a little tedious, and desirous of hinting to him the expediency of not attempting too grand a display of recondite learning—leaning forward from the bench, with something of a cheerful smile upon his face, inquired of my stalwart and imperturbable friend, Major Fare (who was then addressing him), whether it had chanced to him in his extended legal researches ever to have made himself acquainted with the memorable discussions in England of the famous “Shelley case?” “Oh!” cried the indefatigable Major, “I can assure your Honor that I have fully mastered all the learning of the Shelley case, of which fact I am prepared to lay before the court the most indubitable evidence.” After which the undismayed advocate, with all due formality, pulled from one of his coat-pockets a stout roll of paper, upon which he had carefully written out his own views upon the “Shelley case” in the

most minute and elaborate manner. This he commenced reading with most stoical composure (being evidently not a little pleased at the opportunity which had been so unexpectedly afforded him of ventilating his learning), to the extent of some fifteen or twenty closely-written pages. This remarkable scene produced much amusement to the members of the bar, the by-standers and all the judges themselves, saving indeed, Judge McKinney, who is described as having evinced on the occasion an amount of restlessness and chagrin not at all in keeping with his customary calmness and equanimity.

Whilst Judge McKinney was on the bench he was intimately associated with a gentleman, now far advanced in years, but who has long been admitted in Tennessee to be one of the most learned jurists that has ever presided in her courts. I allude to the Honorable Robert L. Caruthers, now, and for many years past, the chief law professor of the Lebanon University. It is due to Judge Caruthers to state that he took a leading part in the establishment of this famous institution of learning, and has for many years watched over its interests with a tender fidelity and vigilance which have known no intermission. It is but moderate praise to say of this venerable person that the whole legal fraternity of Tennessee have long recognized him as a man of profound judicial learning, of indomitable industry, of unsurpassed public spirit, and as peculiarly qualified by temper, by manners, and by reason of his admirable tact in the communication of instruction, for the dignified and responsible position which he holds.

I know of not a single member of the present bar of Memphis with whom I have been so long acquainted as the Honorable Henry G. Smith. His learning and ability have been displayed most conspicuously both upon the bench and at the bar. Amidst the terrible trials and sufferings through which the state of Tennessee has been fated to pass during the last fifteen years, Judge Smith has uniformly conducted himself with such discretion, such dignity, and such decorum as to win both the affection and esteem of all who were observers

of his acts. No one could have given higher evidences than he has done of courage mingled with forbearance, love of country tempered with moderation, and detestation of vice softened and regulated by feelings of a generous and refined humanity. The numerous friends and admirers of this sober-minded and well-balanced personage have been expecting, for several years, some adequate recognition of his qualifications and services at the hands of the administration now in power. Whether a man of such eminent modesty and disinterestedness is destined to become the recipient of official favor in these times of turmoil and confusion, when so many of less delicacy and self-respect are unblushingly struggling for places which they are not at all qualified to fill, is a question which I am not at all prepared to solve.

The accomplished and amiable wife of Judge Smith I have known in former years as the affectionate help-mate of one of the most devoted personal friends I have ever known—the late John A. Nooe. Of this loved and honored gentleman I can scarcely speak without a tear. I knew him from early boyhood, and was once connected with him in business as a member of the Memphis bar. A higher-toned gentleman I never met. His temper was as mild and affectionate as if he had belonged to the gentler sex. His countenance beamed with benignity; his sincerity was never called in question; his justice was as unbending as that of Cato himself. Judge Nooe was a lawyer of much reading, and could effectively apply the learning he had acquired. His diffidence in public was a serious draw-back upon his complete success as a forensic advocate; though he always spoke with striking good sense and in language both chaste and elegant, and as a draftsman of all legal papers he was particularly skilful and accurate. I can honestly affirm that this excellent gentleman grew in my affection and esteem up even to the moment of his lamented decease.

Edwin Yerger was a member of that worthy and noted family of which I have heretofore had occasion repeatedly to speak. He was introduced to me in the very beginning of his brilliant professional career, and I was at that time

most favorably impressed in regard both to his abilities and moral qualities. He was decidedly a man of genius; and of this he gave such evidence in his daily exhibitions at the bar as to place his fame both as a jurist and advocate, upon a foundation too firm to be now shaken. Nothing could exceed his liveliness and dexterity in the discussions of the forum, his wonderful readiness in reply, or the immense fertility of his general resources. Had he been of uniformly studious habits, and as much devoted to his professional avocations as he was to the attractive pleasures of social life, he undoubtedly would have had it in his power to establish an almost unequalled reputation both as a speaker and jurist. He died in the meridian of life whilst surrounded by hosts of sympathizing and admiring friends.

Henry T. Ellet, now of Memphis, formerly of Mississippi, has been known to me familiarly for more than thirty-five years. I had the honor of being more than once associated with him, in cases of no little importance, before his elevation to the bench of the Supreme Court of Mississippi; and always found him affable, cordial, and gentlemanly. His manners are marked with a degree of refinement and delicacy not as common as might be desired among the members of the bar as a class; his temperament is one not easily decomposed by the ordinary occurrences of professional life; he is uniformly courteous, civil, and obliging in his intercourse with the members of his own profession with whom he is thrown into contact; and his labors, both as a student and legal practitioner, are unremitting; leaving less time for social intercourse than would be desirable to others, and doubtless gratifying to himself. Few men now living have read law books with more profit than Judge Ellet; few occupants of the bench have enunciated a larger number of sound and well reasoned opinions; and no juridical personage, either living or dead, has given more conclusive evidences than he has done, of unswerving personal integrity, and of the nicest and most profound regard for all that is pure, decorous, and elevated in the administration of public affairs.

I remember to have been employed, many years ago, in

connection with Judge Ellet, to defend a man charged with *sheep-stealing* in the Circuit Court of Claiborne county in the State of Mississippi. Our client was a man of considerable wealth and able to pay his counsel liberal fees. He was far advanced in years, was a member of the church, and was of a previous character wholly free from reproach. He was accused of having caused to be caught and slain, in the night time, some fifteen or twenty sheep, of a particularly valuable kind, belonging to one of his nearest neighbors, and of having had them buried upon his own premises. The circumstances were such as were calculated to awaken strong suspicions of the guilt of our client. With the neighbor mentioned he had been for some time past at variance. The wagon of Mr. Wood (the alleged culprit) was found crimsoned with the blood of animals of some kind, freshly butchered, and which had been apparently piled up irregularly in the body of the wagon, the tracks of which had been distinctly traced from the house of Mr. Wood to the place of sepulture. The carcasses, when exhumed, were found to bear the mark of the person referred to, though then in a state of incipient putrefaction. The neighbors had collected about the place of burial, and the ghastly spectacle which they beheld had awakened intense excitement among them. Prejudice against our client ran so high at one time that he stood in evident danger of undergoing summary punishment for his supposed crime. A vast concourse attended the trial at the court house in Port Gibson, a few weeks after, but a small number of whom expected anything else than an easy conviction. Our client constantly averred his own innocence, and came into court with a countenance and manner which spoke strongly in his favor. It was clear that he must be guilty as charged or had been the victim of a dark and diabolical conspiracy deliberately set on foot for his undoing. The latter hypothesis was of course the one upon which the defence of the accused was made to rest. This hypothesis had to be upheld by circumstantial testimony alone."

The speech made by my honored associate in the case was indeed a most masterly one, as had also been his previous

cross-examination of the State's witnesses. The jury was persuaded to acquit our client, who returned to his own home relieved from all danger of incarceration in the penitentiary, but not by any means restored to his former good standing in the estimation of his neighbors.

Emerson Etheridge is one of the most brilliant and accomplished men that the State of Tennessee has yet been able to boast. He is a most showy and effective speaker before the people, in legislative halls, or in courts of justice. He is but little past the middle age of man at this moment, has a physical constitution of much vigor, is of unexceptionable habits, and is as solicitous as he could have been in earlier life of all useful knowledge, as well as of those accomplishments which give grace and attractiveness to learning, and win the kindly sympathies of the multitude. Mr. Etheridge's felicity in the delineation of character is one of his most noted attributes; his colloquial powers are such as to make him the charm of every social circle into which he enters; his facetious sallies are often of irresistible potency; his illustrations, when he chooses to bring them to his aid, are at once copious, apposite, and full of originality. His satire, on occasions demanding a resort to this terrible implement of chastisement, is as bitter and all-consuming as the most successful of the far-famed letters of Junius; but, unlike the murderous "*Stat nominis umbra*," Mr. Etheridge never stabs in the dark, or skulks from the just responsibility of his own aggressive hostility. Seldom has so much native kindness of heart been associated in the same bosom with a stern and unyielding sense of justice. His manliness and generosity are at least equal to his hatred for all that is ignoble or degrading. His commiseration for the unavoidable weakness of humankind has as much influence over his conduct as that immeasurable scorn to which he has so often given eloquent expression when beholding acts of high-handed villainy, or when called upon to expose the cruel exactions of official tyranny. Mr. Etheridge has been more than ordinarily successful, both as an attorney and politician; but he is well known equally to abhor chicane and trickery at the bar, and corruption and knavery

in places of civil trust and dignity, and is, upon the whole, far better calculated to command the respect of the unlettered multitude, than to possess himself of their sympathy and their suffrages.

About the year 1842, or 1843, a man, whose surname was *Graves*, and whose christian name, having now forgotten, I am not disposed to put myself to the trouble of impressing again upon my memory, found his way into the legislature of Mississippi from one of the newly settled counties of the state. He was said to be engaged in the practice of law, and no doubt was so to a limited extent. The first time I ever saw this person, he was delivering a rampant and incoherent speech in the Mississippi House of Representatives, against the then existing Anti-Liquor Law. I had not listened to him five minutes before I discovered that he was a demagogue of the lowest type. He gave utterance to all the customary clap-trap suggestions of that class of artful and dishonest political declaimers to which he belonged; talked much and vehemently of the sacred rights of *freedom*, handed down from our ancestors; denounced all *sumptuary* laws, as hostile to republican institutions, and railed out most vociferously against what he described as the *inquisitorial* cruelty of any interference on the part of the government with the domestic and social habits of the citizens. This individual was evidently of opinion that every man in a christian and civilized community, blessed with genuine freedom, has an unquestionable and inalienable natural right not only to get drunk himself, whenever he shall choose to do so, but likewise to make others drunk also,—provided, in the latter case, the government shall be willing so far to degrade itself as to guarantee to certain of its citizens, for a trifling pecuniary consideration, the noble and precious privilege of inciting their fellow citizens (by filling their stomachs with the requisite quantity of alcoholic stimulants) to part with their own rationality, and debauch their own physical and moral nature, so as to become fitted for deeds of blood and violence, and for nearly all the worst and most degrading crimes which bring disgrace and ruin upon society. This wretched creature had

evidently never in his life reflected that a republican system of government can only be maintained by the free and untrammelled exercise of both *intellect* and *virtue*; neither of which can survive the general prevalence of drunkenness. He had never learned that a large majority of the crimes which occur in every community where the sale, in small quantities, of alcoholic stimulants is allowed, at tippling shops and elsewhere, are attributable to an accursed *compact* entered into with the government itself, which, for a stipulated sum, paid into its treasury, basely guarantees indemnity to those wretches who, for money's sake, are daily and hourly engaged in distributing that which incites to murder, and to almost every crime that man in his most debased condition is found capable of perpetrating, and is the chief cause of commercial bankruptcy, the pauperism of families, connubial wretchedness, deaths by apoplexy, by paralysis, by *mania a potu*, and other similar maladies. The idea had perchance never entered into his cranium, that a very large proportion of the most intellectual and cultivated men in this republic have been disgraced and ruined by strong drink imbibed at *licensed* liquor shops. But he evidently did expect to grow popular with drinking men everywhere by aiding prominently in obtaining the repeal of the Anti-Gallon Law; and supposed that in this way he would infallibly enlist all the vendors of alcohol who should thereafter renew their work of destruction upon the soil of Mississippi, in support of his own political aspirations, not doubting, perhaps, that thus he might, after a while, be elevated, as the indomitable champion of freedom, into some station of no little dignity and emolument. I listened to this man for a few minutes, whilst he spoke, and withdrew in disgust; for I had been most unfavorably impressed by his style of delivery; his low and grovelling appeals to the coarsest sensual appetites of the community; his cunning and impudent expression of countenance, and his blustrous self-importance. Thanks to this man and to others of his stamp, the Anti-Liquor Law was repealed; that law which had been faithfully and beneficially enforced throughout the State of Mississippi for more than two years; that law under which honest and

enlightened juries had convicted hundreds of lawless culprits; that law the validity of which had been affirmed by the highest appellate court in the State; that law under the beneficent influence of which a whole people had become soberized, and the number of crimes and criminals undeniably diminished at least seventy-five per cent. What innumerable ills have flowed from the doing away of this enactment in the last thirty years, it is in the power of no earthly being to estimate!

It so happened that this very man Graves was a nominee for the office of treasurer of the State of Mississippi, in the year 1843. What exploit, save the one I have named, gave him this dubious honor, I have never yet learned. Some facts connected with this period are indelibly impressed upon my mind, which I will here recite.

In the heated political canvass, then occurring, it chanced that the nominated candidates of my own political party (the Democratic) visited the town in which I resided, on a certain occasion, for the purpose of addressing the people of that vicinage. The celebrated William M. Guin, General John D. Freeman, Governor Tucker, and others, including the before-named nominee for treasurer, delivered speeches in the courthouse, to all of which I listened. After the meeting was at an end I invited all the state candidates, save one, to dine with me. When dinner was over, I took the liberty of saying to my honored guests that whilst I should vote for them with pleasure in the coming election, I could not support Mr. Graves, for there were marks of obliquity about his visage which I could not behold without shuddering. I even ventured to *predict* that this man, if elected to the office of treasurer, would *purloin* the money placed in his charge. Well, Graves was elected treasurer, and in less than twelve months from that event, the people of Mississippi were thrown into commotion by the startling intelligence that Graves had abstracted more than a hundred thousand dollars of the gold and silver in the treasury. A scrutiny was instituted, and this intelligence turned out to be well-founded. A criminal prosecution was immediately commenced, and I

had the honor of being called upon to aid the able and accomplished Attorney-General Freeman in bringing the alleged offender to justice. In order to give dignity and impressiveness to the proceedings, Chief Justice Sharkey was requested to act as a court of inquiry. This he consented to do, and the investigation of Graves' case began in the room where the supreme court of the state ordinarily held its sessions. The evidence adduced was overwhelming, and some of the discussions which arose upon points involving the competency of a portion of the evidence disclosed to the defaulting treasurer the extreme danger of his position. The court adjourned on a Saturday evening, to resume its session on the ensuing Monday morning. For want of a regular jail, the prisoner was committed to the care of a worthy citizen, a Mr. Carr, who engaged to retain him at his own house and bring him into court again at the proper time. During the still hours of a warm Sabbath day the wife of Graves, a beautiful and accomplished woman, paid a visit to her husband, was conducted to his room, there exchanged garments with him, and the prisoner escaped in female vestments, as several eminent heroes have been likewise known to do, including Charles the Fifth of Spain, and Charles the Second of England.

Thus was this noted prosecution brought to an end. Graves succeeded in getting to Canada. I may properly add here that not a dollar of this large amount was ever restored to the treasury of Mississippi until the year 1853, when, as governor of the state, empowered by a special act to *compromise* the affair, I succeeded in getting back less than half the amount abstracted, on condition of releasing the securities on Graves' official bond as treasurer from the payment of the remainder.

Some time in the year 1826, I formed an acquaintance with John J. Ormond, who was then a resident of the town of Courtland, in North Alabama, where he had located some five or six years previously, and where he had quickly established a high reputation as a lawyer. His professional rank was altogether superior to that of any attorney in that par-

particular section of country, and he enjoyed the general respect and confidence of the community to an extent corresponding with his success in his profession. He was a man of much vivacity and vigor of intellect, was thoroughly informed in everything appertaining to juridical learning, and spoke at the bar with a pointedness and force which always commanded the fullest attention of both court and jury. He had no talent for declamation, and always confined himself closely to the facts and principles involved. His appearance and manners were those of a polished and well-bred gentleman, and there was a dignity and stateliness about him, both in court and elsewhere, which seemed to justify the supposition that he had been both born and nurtured in the higher ranks of society. Yet it is now quite well known that he had been a maker of boots and shoes in the days of opening manhood, and had evinced much skill in this useful calling. He had at one time resided in the town of Charlottesville, in Virginia; but whether he was born there, or in one of the Northern states, has never been distinctly ascertained. He afterwards became one of the Supreme Judges of Alabama, and is known to have delivered a number of able and learned opinions from the bench which are yet much respected as authority. In all the social and domestic relations Judge Ormond was a model of propriety, and he left behind him a reputation for uprightness and patriotism of which his descendants may well be proud. The last time I saw this excellent gentleman was in the month of November, 1851, when on my way to Washington, after having succeeded as a Union candidate for the office of Governor of Mississippi, over Jeff. Davis. Passing through the City of Montgomery, I was invited to address the members of the Alabama Legislature and the citizens of Montgomery, in the state capitol, upon the political questions then pending, which I did; after which I spent some four or five hours in confidential converse with Judge Ormond in his own room, and heard with profound respect many sage remarks from his lips, which I am sure I shall never forget. He was a broad-minded and enlightened statesman, and a firm and earnest devotee to the Federal Union.

One of the professional contemporaries of Judge Ormond whilst he continued to reside in the Tennessee valley, was David G. Ligon, who was also well known to me for a series of years. He was born in Virginia, and was very proud of his place of nativity. He was a man of much more than ordinary reading, was a singularly fluent speaker, and possessed conversational powers such as persons less gifted in this respect, could not but witness with feelings of surprise not unmixed, it may be, with admiration. His excitable imagination was almost always in a state of effervescence, and often did he allow his Pegasus to bound over boundless regions both of thought and action far beyond the sober gaze of the ordinary habitants of earth. He was when I knew him in the exuberance of physical health and in the enjoyment of a somewhat superabundant supply of animal spirits, and, when addressing either court or jury, was sure to give vent to much which men of graver habits of thought would be inclined to call rodomontade, and pronounce to be much better fitted to give transient entertainment to those having a special relish for the ludicrous than to enforce conviction or to attract respectable suitors to his office. After the year 1830, it was never my fortune to meet Mr. Ligon, but I have been told that the flow of years carried away towards the evening of life, much of the trashiness of young unripened manhood, and that he became before his decease both a member of the church and an acceptable preacher of the Gospel. He also attained a seat upon the chancery bench, and in this responsible position, is reported to have given general satisfaction.

About the time that Mr. Ormond and Mr. Ligon were residing in Courtland as active practitioners of law, an attorney was gradually rising to eminence at the bar in the neighboring town of Florence, a brief delineation of whom will now be attempted. Peter Anderson was a native of New York, and reported himself to have been trained to the duties of his profession by the celebrated Chancellor Kent. He was a tall slender man, of most fragile structure, and had apparently less of flesh and blood about him than any living

man I ever beheld who was able to walk with elastic vigor and discharge the ordinary functions of social existence. Though considerably over six feet in height, he could not possibly have weighed more than a hundred pounds. His hair was jet black; his complexion was swarthy; he had a face of unusual longitude; a long protruding nose; small dark eyes, deeply sunken in his head; with rough bushy eyebrows, the inner extremities of which almost met and formed a decidedly acute angle. Mr. Anderson had a hollow sepulchral voice and his enunciation seemed to indicate the existence of pulmonary disease of long standing. It was universally admitted that Mr. Anderson was deeply read in legal science, and that he could, when necessary, state a point in court in language of singular clearness and significance. He was not at all though a graceful and winning speaker, and he was altogether lacking in complaisance and affability. He was irritable, dogmatic, and assuming, to an extent altogether unusual at the bar, and whilst all gave him much credit for juridical learning and intellectual acuteness, I should think it certain that he never made a warm and sympathizing friend outside of his own family connection, which was undoubtedly one of great respectability. The last time I saw this individual he was a resident of New Orleans. Whether he succeeded there as an attorney I have not learned.

An attorney of very opposite qualities in some respects was James Deavenport, of the Mississippi bar. He was born somewhere in Virginia, as I have learned, but was educated and prepared for the practice of law in Middle Tennessee. Mr. Deavenport migrated to Mississippi about forty-two years since, and located in the town of Clinton. He was a well-read lawyer, of considerable acquaintance with the volumes of literature at that time most in vogue, and spoke at the bar with much facility and in language both correct and impressive. He was a man of the utmost sweetness of temper and of uniform civility and friendliness of manner. The petty feelings of professional rivalry never found entrance into his manly and generous soul, and during a familiar acquaintance

of many years I do not remember of hearing from his lips one unjust or illiberal allusion to any human being. He was of delicate physical structure, but of very symmetrical proportions, and possessed an expression of countenance as soft and benignant as we are accustomed to behold in the gentler sex. The last occasion of any note when I had an opportunity of hearing Mr. Deavenport speak in court was connected with some very peculiar circumstances, a recital of which I shall now give.

A man by the name of Fitzpatrick was keeper of a hotel formerly much resorted to, located at what was then known as the Mississippi Springs. He had in his employment a genteel and intelligent looking man by the name of Wood, who was officiating as bar-keeper. One morning Fitzpatrick, upon the plea that Wood had abstracted a portion of the money of the house trusted to his custody, accused him openly of embezzlement, and proceeded so far as to break open the trunk of Wood's wife in order, if he could, to find and repossess himself of his lost treasure. Here he found some twenty or thirty dollars, to all of which he boldly laid claim, and proposed to identify the whole mass which he found lying together in the trunk, by swearing to the ownership of a silver quarter of a dollar, which he professed to recognize by reason of a hole which some one had before that time pierced through it. A criminal investigation afterwards ensued before a court of inquiry, and I was employed to defend the parties accused. The case was returned to the circuit court; the grand jury failed to find a true bill, so that the only question remaining to be determined related to the ownership of the money, which was yet in judicial custody. In regard to this matter a discussion ensued between Mr. Deavenport and myself, which was going on in quite a complaisant and orderly manner when Fitzpatrick suddenly appeared in court armed with a large stick, and by his manner evidently menaced me with violence if I should allude to him at all disrespectfully. Upon this, calling the attention of the court to the offender's conduct, I took occasion to speak of him in terms far more uncivil than I had originally intended

to employ. When the discussion was over I called upon Mr. Deavenport, whom I knew to be a just and high-minded gentleman, and asked him to ascertain from his client whether he designed to make an attack upon my person, in which case I should feel bound to put on arms for my own defense. Mr. Deavenport accordingly had an immediate interview with Fitzpatrick, who observed that he had no intention to carry the matter further.

Months elapsed, and I did not hear that Fitzpatrick had ever complained audibly of the language which I had felt justified in applying to him in court. Visiting the City of Jackson one day, and having occasion to hold a conference in one of the hotels there with an honored friend, long since deceased, just as I came forth to the tavern portico, on my way to the open street, Fitzpatrick rushed upon me with a heavy club in his hand, and attempted to strike me with it. I seized the weapon and held it fast, until I had succeeded, a good deal to my own surprise, in throwing the assailant outside of the door, and leaping upon his prostrate person. He was armed with pistols, but before he could draw and fire upon me, the venerable George W. Adams came along and separated the combating parties. After this, learning that Fitzpatrick was still armed, and that he meditated a renewal of hostilities, I borrowed several pistols, and placed myself in front of the hotel, where I knew him to be, and remained in this place, strictly on the defensive. In a minute or two, my antagonist sallied forth and fired at me, but without effect. I returned his fire, but did him no injury. He then ran towards me with his cane elevated, evidently intent on my destruction. As he thus advanced, I took deliberate aim at him, and shot him directly through the abdomen; but, strange to say, the wound inflicted did not prove mortal. So soon as Fitzpatrick got well enough, I determined to hold him responsible for this serious and aggravated violation of the law of the land. I took out a warrant for him, and he was brought before two justices, constituting a court of inquiry, upon a charge of having committed an assault with intent to commit murder. Mr. Prentiss appeared in behalf of the

accused, but despite his eloquence and ingenuity, Fitzpatrick was bound over to appear at the next circuit court, to answer for the offense which he had committed. His situation had now become a very disagreeable one; for, in the event of his being ultimately convicted, confinement in the penitentiary was the least punishment which he would have to endure. Under these circumstances, I was earnestly persuaded by the friends of Fitzpatrick to discontinue the prosecution, they promising in his behalf that I should in future have no cause to complain of his conduct. This course I took pleasure in pursuing, and not only prevailed upon the grand jury, when I was summoned to testify before them, to decline examining me as a witness, but to receive no other evidence against the accused whatever, and to *ignore* the bill of indictment presented to them.

It is due to Fitzpatrick to say that he was ever after my friend, and gave me many proofs of his respect and kindness.

Mr. Deavenport was sent out to New Mexico by President Pierce, as a judicial officer in that remote region. Whether he is still surviving, I have no convenient means of ascertaining; but, whether living or dead, I can say of him that a truer, kinder, or more magnanimous man I have never known.

I have yet made no mention of an individual who is well entitled to a more extended description than it is at present in my power to present.

Joseph E. Davis was a native of Georgia. He was reared in the State of Kentucky, and in the neighborhood of the town of Hopkinsville. Here he read law, obtained license to practice, and soon after removed to the State of Mississippi, and became a resident of the village of Fayette, in Jefferson county. He subsequently removed to the City of Natchez, was quite successful in the accumulation of money, and ultimately located himself in the county of Warren, where he purchased a large and valuable plantation, and became the owner of many slaves. I formed a personal acquaintance with Mr. Davis in the spring of 1831, and formed a high opinion both of his intellect and attainments. He is admitted by all to have been a well-informed attorney, a

shrewd and successful trader, and a man of strong common sense. He certainly had read many books of general science and digested them well. Though a frigid and prosy speaker, he wrote both with correctness and vigor, and, as I have always thought, was one of the best informed politicians of his time. He was an affectionate father and brother, and towards a younger brother, now of world-wide celebrity, gave evidence of such devoted attachment as was calculated to awaken general respect and sympathy. He left a number of children behind him whom he devotedly loved, and for them he provided most generously by will, a short time before his death. Of the younger brother alluded to he was not unmindful. He had bestowed upon him many years before a competent estate, which the latter at the time very much needed, and confidently looked to him for the judicious administration of the property he was about to leave behind him, and for the protection of those children now soon to experience the woes of orphanage. It is painful to know that this large estate has recently become the subject of almost as unkind controversy as did Numidia of old between Jugurtha and the children of Micipsa; and the following decree of the the firm-minded and enlightened Chancellor of Warren county may be with the coming generations of posterity as interesting in the perusal as the graphic pages of Sallust. Here it is :

OPINION OF CHANCELLOR HILL.

The following is the official copy of the opinion of Chancellor Hill of the Chancery Court of Warren county, Mississippi, in the case of Jefferson Davis v. J. H. D. Bowmar et al., delivered at Vicksburg, on the 8th of January, 1876.

Complainant claims to have been the owner of "Brierfield" plantation, situated in this county, not as a purchaser but by possession adverse to his brother J. E. Davis, originating in an alleged parol gift by him, and entry thereunder, as long ago as about 1835.

J. E. Davis originally entered said plantation from the United States Government, together with a large quantity of land adjoining it, known as "Hurricane." He never conveyed any part of either of said plantations.

Complainant claims to have occupied "Brierfield" until it and

"Hurricane" were taken possession of by the United States Government in 1862 or 1863. In 1865 both "Hurricane" and "Brierfield" were turned over by the United States Government to J. E. Davis, it being represented to the government that he, and not Jefferson Davis, was the owner of it.

In 1866 Mr. J. E. Davis sold, and by his deed conveyed, the whole of said two plantations to Benjamin Montgomery and his two sons, for and at the price of \$300,000, taking therefor their bonds secured by mortgage upon the lands. The interest on the bonds was payable annually. The proportionate value of "Brierfield," as represented by the bonds given for the purchase price, is claimed to be \$70,000.

Joe E. Davis died in 1870, leaving his last will and testament, whereby he made these respondents, Mrs. Hamar and J. D. Mitchell, his principal legatees, and also residuary legatees. He specifically willed to the former \$100,000, and to the latter \$50,000, and to each of the complainant's four children \$20,000, payable out of the bonds aforesaid, and requiring the interest accruing thereon to be paid proportionally on those legacies. The will empowered the executors, in their discretion, to abate or remit principal and interest upon said purchase price, and directed them to deal leniently with the purchasers.

The sale was entirely on a credit, and was to parties who were of late slaves of J. E. Davis, and I think was for a larger sum than the purchasers could well carry from the resources of the places. The sale was made at the time when Mr. Jefferson Davis was in prison upon a charge of treason, and it is suggested, in argument, that there were prudential reasons why the transactions concerning the lands might not have been made in his name, conceding him to have been the real owner; to-wit, a fear of confiscation. The political disabilities of complainant have not been removed, and it is conceded, on behalf of respondent, that the same prudential reasons may have operated to induce the testator to will the value of "Brierfield" to the children of complainant instead of to him directly.

The theory of respondents is that the occupation of complainant of the land in question was only permissive, and not adverse, and that while J. E. Davis always held the legal title and absolute power of disposition in himself, it may have been his design to give complainant its use and eventually the property or its proceeds. I

do not deem it necessary to a disposition of the points I am now approaching to determine that question of fact.

In 1870 the will of J. E. Davis was admitted to probate, and this complainant and two others qualified and entered upon their duties as executors, whereupon the relations of complainant to the matters involved in this litigation became that of a trustee.

Complainant joined with his co-executors in inventorying the whole of said bonds as the property of the estate of his testator; also, in determining what should and what should not be paid, under the will, out of the proceeds of said bonds. He paid to his children and to Mrs. Hamar and Mr. Mitchell the interest on their legacies out of the interest collected from the bonds, as directed in the will. In December, 1870, he joined with his co-executors in the performance of their duty as such, in agreeing and declaring that "funds arising from the sale of 'Hurricane' and 'Brierfield' plantations, after satisfying the claims of the legatees specifically provided for from that source, are available for payment of debts due the estate and for current expenses in the administration thereof; the balance shall be considered as part of the residuary legacy." Of this they made a record and signed it officially, and upon that theory the administration proceeded. So down to about the time of the commencement of this suit, the execution of the trust proceeded upon that theory, the trustees in every way treating the sale to the Montgomerys as valid and the bonds as the property of the estate, complainant making no claim against it, nor against the estate on account of such sale for the money received therefrom.

About the time the estate was administered upon, (which was September 21, 1870,) it was suggested to complainant, by a co-executor, Dr. Bowmar, that the legacies to his children were in compensation for "Brierfield." When making his will testator had said, in substance, that the said legacies were intended to represent the value of "Brierfield." Complainant now claims that "Brierfield" was his property, and that the proceeds of the sale, so far as it represents the value of "Brierfield," to wit, \$70,000 of the bonds, is held by the estate of J. E. Davis, in trust for him, and that he is entitled to the same.

It is contended by respondents that by accepting and entering upon the trust and administering its benefits the trustee thereby confirms the trust, asserting that the trust property is legitimately and rightfully disposed of. and he stands as its protector and de-

fender against any claims adverse to the express directions given it by the trust, and is thereby estopped from making such claims himself.

It is, however, contended by complainant that this rule does not go so far as to exclude a person who is a trustee from making his claims against the trust estate in an individual capacity, but only affects the remedy. To illustrate: A trustee of an estate, who is also a creditor of the same, is not, by reason of his trusteeship, prohibited from enforcing his debt, because in this there is nothing inconsistent nor in conflict with the trust.

In the cases referred to, (as, for instance, an administration of an estate,) one of the very purposes of the trust is the payment of all debts and legitimate claims in the manner prescribed by law; but I conceive the case at bar is different in this, that here, in the creation of the trust, the trust property is given express direction; and the complainant now seeks, not to recover a debt or ordinary claim against the estate, but he seeks to carve out of the body of the trust certain portions of it, which he claims as his own; in other words, upon a claim of ownership or right to certain portions of it, he seeks to divert the subject of the trust from what I conceive to have been the clear purport and design of the testator in its creation. Complainant qualified as executor of the will of his brother, and entered upon the trust with his eyes open, certainly knowing then, as well as at any time since, his exact rights, if any he had; and yet he proceeded to its execution in pursuance of it, dealing out from the body of the trust, as a whole, benefits to the beneficiaries, including the members of his own family, even receiving to himself pay for his services as such trustee.

I do not conceive that it is a matter of importance to the determination of this point to inquire whether complainant entered upon and proceeded with the trust upon the apparent theory that the Montgomery bond was absolutely and entirely the property of the testator, for the reason that under the circumstances he was in his heart satisfied to let it remain so; or for the reason that his children were large beneficiaries under the will; or because, his political disabilities not yet being removed, he might have anticipated danger of confiscation if he had the property in his own name; or for any other prudential reasons. It is not so much a question of motive as of fact. I think that upon this view the complainant is estopped from setting up his claim, so inconsistent

and damaging to the trust. To conclude otherwise would be to strike down the sacred seals of confidence which under the jealous eye of courts have so long stood guard over the peculiar relations which characterize trusts, and open the portals to the infirmities of human nature.

Respondents contend for another distinct estoppel against the complainant's claim in this—that after he entered upon the trust he made a claim against the estate for about \$10,000 for a debt alleged to be owing to him. This claim was disputed, and afterwards an adjustment and compromise was made and reduced to writing by and between complainant and these respondents, Mrs. Hamer and J. D. Mitchell, the two principal witnesses, and also the residuary legatees under the will, whereby they obligated themselves in a manner and to an extent that upon the evidence it would be unreasonable to suppose they would have done had complainant then claimed to be entitled out of the Montgomery bonds to the purchase price of "Brierfield." It does not appear that at this time complainant had ever evinced any pretense to any right to the proceeds of "Brierfield," though his co-executor, Dr. Bowmar, had long before suggested to him that the legacies to his children were in lieu of it. These respondents do not appear to have had any suspicion of such claim, and if they had entertained such suspicion I think complainant's course with regard to the matter was well calculated to quiet and remove it.

I do not think that, under the established and wholesome rules governing such matters, complainant can be permitted to controvert his acts and course. Not only as trustee under the will, but in adjusting the said individual matter, complainant's acts and course were confirmatory of the disposition made of "Brierfield" by the testator, all parties in interest acquiescing, and respondents, Hamer and Mitchell, obligating themselves to complainant's advantage as aforesaid. Again—and as bearing upon the question of estoppel already considered—it is not out of place to advert to the point, that the principal contested fact in this case is the ownership of "Brierfield," based not upon paper titles, but upon adverse possession.

The testimony bearing upon this question is such, pro and con, as to command the most thorough and analytical consideration in order to arrive at the real truth of the matter, which condition of the case is such, in my opinion, as to give additional force to the claims of estoppel set up by the defense.

I am of the opinion that for the reasons afore presented Mr. Davis is estopped from prosecuting this claim.

These conclusions seem to render the consideration of other questions unnecessary. Let a decree be entered accordingly.

E. HILL, Chancellor.

George W. Paschal was born in the county of Greene, in the State of Georgia, on the 23d of November, 1812, but was reared in Oglethorpe. The standing of his family was one of great respectability, and both his father and mother were noted for their intelligence and moral worth. The former having failed in business, the opportunities of mental culture accessible to the subject of this notice were very restricted. By singular application and energy, young Paschal was able to make greater educational progress than could have been reasonably expected, prepared himself very creditably for commencing the study of law, and, in 1832, received a license to practice, subscribed by the celebrated William H. Crawford. He located immediately thereafter in the county of Lumpkin, and there continued for four years, enjoying as much success as is ordinarily achieved by young attorneys in the outset of their career. Meanwhile he continued his legal studies, mingling therewith considerable attention to works of general science and literature, and occasionally contributed articles for the newspapers which attracted at the time a good deal of attention. He removed to Arkansas in the year 1837, and established his residence in the little town of Van Buren, in Benton county, where he recommenced his professional career. The first case of interest in which he appeared was one in which the alleged culprit was accused of having forged a free pass for a negro, which pass was to enable him to obtain relief from service by flying to the State of Illinois. The negro having been arrested on the way, confessed that he had stolen five hundred dollars of his master's money, and paid the same to a neighboring white citizen, as his recompense for the preparation of this manumitting document. Though there was little other evidence of the guilt of the accused besides the confession of the slave, whose testimony was legally incompetent, yet so strong was the prejudice

awakened by the affair, that the grand jury of the county did not hesitate to find a true bill against the white man alluded to, and a civil suit was in addition instituted for the recovery of the five hundred dollars.

In the trial of these cases, several attorneys appeared, all of whom have since gained more or less prominence. These were David Walker, Seaborn G. Sneed, and Williamson S. Oldham, on the part of the prosecution, and Samuel D. Evans, Royal T. Wheeler, and George W. Paschal; on the part of the defence. A verdict of acquittal was obtained for the accused, in the criminal prosecution, and the civil action resulted in the defeat of the plaintiff. Paschal, Oldham, Walker and Wheeler, were all of them afterwards elected to the bench of the Supreme Court of Arkansas, and three of these occupied the office of Chief Justice thereof. Sneed became a distinguished district judge, and afterwards served as a Representative in Congress.

Immediately after these trials, Paschal found himself in possession of an extensive practice as a lawyer. Professional success was far from inducing him to relax in his pursuit of knowledge, but, on the contrary, he is known to have become more and more devoted to books as he advanced in years, and to have at all times avoided the use of strong drink, that direst enemy and assured extinguisher of forensic fame and mental power.

Judge Paschal did not continue as long upon the bench as his numerous advising friends most earnestly desired, but voluntarily retired therefrom, and resumed the practice of his profession just in time to take charge, at a critical moment, of what had been long known as the "Cherokee Case." He wrote much and ably on this much controverted subject, and greatly extended his reputation thereby, and especially among the friends of the long-suffering Indians. His labors in their behalf were crowned with the most distinguished success, and resulted in the treaty of 1846, well known as the Treaty of Amnesty, by means of which more than two millions of dollars were restored to those from whom the same had been for so many years unjustly and cruelly withheld.

Being invited to Texas, in order to attend to some matters of great importance to certain of his clients, in the year 1848 Judge Paschal located in the City of Galveston, from which place he afterwards deemed it expedient to remove to Austin, the capital of the state. It is doubtless a fortunate circumstance in his forensic history that he entered at this period upon a field of professional exertion so different in many respects from that which he had previously occupied; for in Texas he found it necessary to become profoundly acquainted with the principles of the civil law, and with the laws of Spain, as modified in the Mexican states of Coahuila and Texas. Notwithstanding his severe professional labors, at this period of his career, he became also extensively known as a political writer, and did much to preserve Texas from the criminal absurdities of Know-Nothingism and pro-slavery fanaticism—fiercely demanding the reopening of the African slave trade.

When the dangers of disunion in 1860 were menacing the peace and happiness of the republic, no one was more zealous and active than Judge Paschal in warning his countrymen of the South against all the evil consequences which they have since been fated to experience. When he found his patriotic warnings disregarded, and his sage and salutary counsels rejected, he quietly retired from the arena of profitless contention, and has, for some years past, whilst diligently attending to his business as an attorney, been engaged also in the writing of books, several of which have already attracted much public attention, and greatly added to his fame as a jurist. Among these may be mentioned his *Annotated Digest of the Laws of Texas*, and his *Annotated Constitution of the United States*, two works of surpassing usefulness to the present and to future generations.

With Armstead Burwell, formerly a distinguished member of the bar of Mississippi, I have had the honor of enjoying an intimate personal acquaintance for many years past. Virginia gave him birth, and here he received a thorough collegiate education. He became a citizen of Mississippi about thirty-six years since, and, in a few years, obtained a large and

lucrative practice. Though one of the most zealous and unswerving supporters of the Federal Union that the South contained at the eventful period of 1861, yet has he suffered, in various ways, more severely by the late distressful war than any person whom I can name. He is now, when long past the meridian of life, struggling with manly and persevering energy to retrieve his lost fortunes.

Mr. Burwell possesses a sound and discriminating mind, much and varied learning, a generous and patriotic heart, and a fondness for professional labor which should command in his behalf the respect and sympathy of all who can appreciate intellectual and moral worth, and feel sorrow over the undeserved sufferings of the unoffending and the upright.

I shall now give some account of one of the most remarkable men, in many respects, that this age has produced. I saw William L. Yancey, for the first time, in the summer of 1848. He had an interview with Mr. Calhoun, in the hall of the National Senate, when he was on his way to Baltimore, where the National Convention of the Democratic party was about assembling. Of what occurred at this interview, I received authentic and satisfactory information at that time. Mr. Calhoun and Mr. Yancey, as well as many other pro-slavery men in the South, were not content with the protection understood to be given by the Federal Constitution to slavery in the states where it then existed, but desired to obtain for this institution additional organic guarantees. This they hoped to secure through the instrumentality of the Democratic party, and, with a view to this end, resolved to get, if they could, a new plank in the accustomed political platform of that party, committing its members to the adoption of a distinct *intervention* policy, and allowing slavery to be introduced into all the vacant territory of the Union. Mr. Yancey is well known to have proceeded to Baltimore on the occasion referred to, and to have made an effort to have such a resolution as has been described adopted by that body. Failing in this, he withdrew from the convention in disgust, returned to his own home in Alabama, and, for some years thereafter, confined himself exclusively

to the practice of his profession, in which he had already become not a little distinguished. His devotion to the study of law-books was such as is not often seen. Meanwhile, he read scientific and literary works of acknowledged merit, and labored with a most unremitting zeal to perfect himself in the art of oratory. In a few years his fame as a jurist and as a forensic advocate was widely diffused, and he attained such a degree of intellectual culture as placed him far beyond the reach of all local rivalry. There was in Mr. Yancey's person, at least in his latter days, but little to impress the casual beholder, or to enkindle the sympathies of those who had no special commune with him. In stature he was rather beneath than above the height of ordinary men. His face was well shaped, but neither strikingly handsome nor the reverse. His vestments were quite remarkable for their plainness and simplicity, and did not always fit him as well as they might have done. His aspect was in general somewhat lacking in animation, and not seldom betrayed tokens of nervous exhaustion. His manners were decidedly reserved, with a perceptible approximation to moroseness. He made no attempt to shine in ordinary converse. It is known that he had studied men closely, and had looked deeply into the motives and purposes of those with whom he had held intercourse, or whose movements in public life had specially attracted his attention. In general he was able to keep the tempestuous feelings of his soul in a state of stoical suppression; but occasions sometimes arose when, either having lost his accustomed power of self-control, or deeming it expedient to make some display of the stormier energies with which he was endowed, he unloosed all the furies under his command upon some noted antagonist, and did and said things which those who witnessed his sublime ravings never again forgot. To William L. Yancey, more than to any man besides whom I have known, I should feel justified in applying the graphic language of a modern poet, and say:

"Unlike the heroes of each ancient race,
 Demons in act, but gods at least in face,
 In Conrad's form seems little to admire,
 Though his black eye-brow shades a glance of fire.
 Robust, but not Herculean to the sight,
 No giant frame set forth his common height,
 Yet, on the whole, who paused to look again
 Saw more than marks the herd of vulgar men;
 They gaze and marvel how—and still confess
 That thus it is, but why they cannot guess.

* * * * *

Though smooth his voice, and calm his general mien,
 Still seems there something he would not have seen;
 His features' deepening lines and varying hue,
 At times attracted but perplexed the view,
 As if within that murkiness of mind
 Worked feelings fearful and yet undefined.
 Such might it be; that none could truly tell;
 Too close inquiry his stern glance would quell.
 There breathe but few whose aspect might defy
 The full encounter of his searching eye.
 He had the skill when cunning's gaze would seek
 To prove his heart and watch his changing cheek,
 At once the observer's purpose to espy,
 And on himself turn back his scrutiny,
 Lest he to Conrad rather should betray
 Some secret thought, than drag that chief's to day."

I never had the least personal acquaintance with William L. Yancey until his arrival in Richmond as a Confederate Senator from Alabama. The civil war which he had been so prominently concerned in bringing on was then raging, and almost every day we were hearing of new battles and of a most lamentable waste of precious American blood on either side. Mr. Yancey had then just returned from Europe, whither he had gone with a hope of so far propitiating foreign powers as to secure at their hands a formal recognition of the newly organized Confederacy which he represented.

In this quest he had been painfully disappointed, and he had been reported in the newspapers of the time as having expressed himself in rather discouraging terms, on several public occasions, touching the probable result of the war. At the moment of Mr. Yancey's reaching Richmond, a number of occurrences had taken place well calculated to deepen his chagrin and fill his mind with hopelessness and gloom. Tokens of gross maladministration in Confederate affairs were almost everywhere manifest, and the unparalleled obstinacy of those in power seemed to render all amelioration impossible. Under these circumstances I had the honor of being summoned to a festal entertainment in one of the hotels of Richmond, where Mr. Yancey was also an invited guest. I sat opposite to him at table, but we were not introduced. In truth such a proceeding would have been much out of place, since each of us had denounced the other in heated political speeches delivered in 1860. Mr. Yancey was evidently in bad spirits, and said not a word in furtherance of the hilarity in which he had been called to participate. Several months passed after this, before our common friends brought Mr. Yancey and myself together, and we became reconciled. After this, our relations became so kind that when his decease was formally announced in the Confederate House of Representatives of which I was a member, I was requested to speak in commendation of him; which I certainly took great pleasure in doing.

I do not wish to be understood as claiming to have been at any time on terms of close intimacy with this very remarkable person, but I heard him speak repeatedly in the Confederate Senate, and listened to his celebrated speech to a vast concourse in the summer of 1860, on Capitol Hill in Nashville, and have thus been able to form a very decided opinion as to his powers as a speaker.

In my judgment, the South has contained within her limits no such eloquent and effective political speaker as William L. Yancey, since the death of George A. McDuffie. When rising to discuss a question of special dignity and importance, his aspect and manner were marked with mingled ear-

nestness and solemnity. His exordium was always uttered with an imposing slowness and formality. He enunciated every word and syllable distinctly. His voice was clear, strong, and sonorous. He commonly spoke in the conversational tone, a little elevated. His gestures were few, but these were most apt and impressive. He never addressed either a deliberative body or a popular audience without having previously mastered the subject upon which he was expected to dilate, in all its parts. His acute and well-balanced intellect, supplied as it was with vast stores of information of almost every kind, generally enabled him to anticipate and respond effectually to whatever might be said by his adversaries in debate. His powers of sarcasm were tremendous, and he sometimes indulged in a bitter and sneerful ridicule which it was very difficult to tolerate patiently. The greatest of his speeches in Richmond was that which he delivered upon what was known as the judiciary question, in which he took strong ground against conferring appellate jurisdiction upon the Confederate Supreme Court in cases originating in the state courts. I had the satisfaction of hearing the whole of his elaborate argument on this occasion, and can sincerely declare that it seemed to me to be very nearly equal in vigor, brilliancy, and classic ornament, to some of the best speeches of Webster or Pinckney. Arthur F. Hopkins sat by my side on this interesting occasion, and exclaimed to me more than once that he was now thoroughly convinced that Mr. Yancey was by far the ablest of living speakers.

I have already said that Mr. Yancey had much hand in the origination of the late civil war, and such was certainly the case; but in regard to his conduct in this respect, I have long since ceased to censure him with bitterness. Trained in the days of his opening manhood, in the extreme state rights school of the South, he very naturally adopted certain plausible dogmas, to the support of which he afterwards devoted the best energies of his splendid and gigantic intellect. He really believed, that under our system of government, the states are absolutely sovereign, bound together only by a league which they may at any moment dis-

solve, and that the Federal Government, owing its origin to *states*, as such, is a mere *agency* established by *them*, for purposes of convenience, and has no powers whatever save those which have been formally and specifically conceded to it. He devoutly believed, with Mr. Calhoun, that African slavery was a vital and indispensable ingredient of the system of polity established by our fathers; that, without it, no freedom, worthy of the name, could be enjoyed by the white race of this continent, and that the more widely diffused it might become, the more prosperous and happy would be the whole Republic.

Entertaining these views, it is not at all wonderful that Mr. Yancey should have sought to engraft upon the Democratic political platform of 1848 a resolution affirmatively protective of slavery in the territories. It is as little surprising that he and those agreeing with him in sentiment should advocate disunion in 1851, because of the admission of California as a free state; that they should have made an attempt in 1861 to persuade the Democratic party to take what he called an "*aggressive attitude*" in behalf of slavery; that, failing in this, he and they should have attempted to disintegrate that party; and that when, by these proceedings, the election of a Republican President was brought about, *secession* was at once resolved on as the only means left, in their opinion, of saving African slavery from ultimate extermination.

I repeat that, far as I am, and have ever been, from coinciding with Mr. Yancey and his state-rights adherents as to these matters, I am not at all inclined, at this moment, to heap opprobrium upon his memory. His sincerity in utterance of his opinions, I do not at all question, and it is due to him to say that his conduct as a legislator in Richmond, during the trying years of the War of the Rebellion, was in the highest degree marked with *consistency*, *firmness*, and *manly independence*. Whatever else may be justly said by the enemies of William L. Yancey, these truths may be safely asserted of him: *he* never sought to make money by the war; *he* ever opposed the suspension of habeas corpus—a measure so baneful to individual freedom; *he* never gave his

assent to the displacement of able and gallant military commanders, in order to make way for the incompetent favorites of a prejudiced and self-willed executive chief; *he* never proposed to murder in cold blood all the prisoners taken in war; *he* never introduced a bill providing for the permanent establishment of *martial law*; *he* never united in a scheme for the coercing of one of the states deemed by him *sovereign*, and constraining it to remain in a confederacy after it had become heartily disgusted with it, and wished to return to the Federal Union; *he* never voted for a bill providing for the payment of the salary of the Confederate President in *gold*, whilst the Confederate soldiers, in rags and barefoot, were refused the wretched pittance of depreciated paper which they had been allowed by law; *he* had no hand in the unpardonable burning of Richmond, and, had he survived so long as the month of December, 1864—seeing the ruin then impending over the Confederate cause—he would, I feel perfectly assured, have urged, with all the eloquence at his command, the making of peace with the Federal Government, on the honorable and advantageous terms at that time offered by Mr. Lincoln, as all intelligent men now know.

Future generations will undoubtedly recognize William L. Yancey as one of the ablest, most far-seeing, and most statesmanlike personages that took part in the Confederate struggle, as he was undeniably one of the most profound jurists and most eloquent advocates that have ever adorned the bar of the South and Southwest.

I shall venture to add further that, were William L. Yancey yet living, he would rejoice as much as any other man that can be mentioned, over the cessation of unbrotherly and profitless hostilities, the prevalence of peace, concord and amity once more within our borders, and the splendid prospect opening before us at this blessed Centennial period, of the future glory, power and felicity of this noble republic, *one and indivisible*.

I have heretofore failed altogether to make mention of a gentleman long known both in Tennessee and Mississippi as a member of the bar, and in the former of these states as a

circuit judge for some years and representative in Congress of some prominence. In order to do full justice to the rare traits of character of James C. Mitchell, the individual just alluded to, I find that it will be necessary to offer a remark or two upon what is called *egotism*, or *egoism* as Mr. Jefferson has chosen, for some reason not very apparent, to entitle it. Gibbon commences his famous autobiography with a confession that few persons have been able to speak gracefully of themselves; and all the world seems to be united in regarding a habitual and extravagant self-laudation as decidedly in bad taste and not a little disgusting. Yet as the history of man, so far as the same is of any value, must, to a large extent, consist of individual experiences, and as we are so constituted as to be specially inclined to feel an interest in the narratives of persons of any note, embracing scenes through which they have passed, dangers to which they have been exposed or difficulties which they have had to overcome, or which they have been, perchance, so unhappy as to find insurmountable—nothing can be well imagined more absurd than to place the cold hand of *prohibition* upon revelations made by our associates of what they have chanced personally to see and hear of the world's concerns, or of the perilous struggles in which they may have been compelled to participate, amidst the everchanging circumstances of a short and eventful existence. Those who have pursued the graphic and impartial commentaries of Julius Cæsar, the autobiographies of such personages as our own Franklin, Jefferson and John Adams, the deeply entertaining diaries of Evelyn and John Quincy Adams, or the charming memoirs of Sully, or have reflected that the poems of Lord Byron owe a very large proportion of their unequalled attractiveness to the fact that in these wondrous effusions this bold and eccentric genius has manifestly attempted, like Rousseau in his Confessions, to give to mankind some account of his own inner man, as well of his outward manifestations and varied troubles and perplexities—will hardly be inclined to pass a sweeping condemnation upon all that the dull and uninspired writings of this generation have united in deriding as *egotistical*.

But to return to our theme: James C. Mitchell was born in the State of Virginia, and, as he was fond of mentioning, in the mountainous portion of that ancient commonwealth, in the neighborhood of the celebrated Peaks of Otter, to the mystical influence of which, in some way never fully explained by him, he attributed his majestic and erect figure and his lofty and aspiring temper and intellect. He was a good deal above six feet in height, had a massive and muscular frame, and a voice which, when fully exerted, was audible to a great distance round him. His physiognomy was strongly marked and his bodily strength and activity were such as few, if any, of his associates could justly boast. He was thought, by many, to resemble the famous Sam Houston in person, and such, indeed, was Judge Mitchell's own opinion; but he ever maintained that his eyes were both larger and more lustrous than those of the San Jacinto hero. I have heard the Judge say, more than once, that when in Congress, Houston and himself were much disposed to dress in habiliments of the same cut and color, and that, on one occasion in particular, they arrayed themselves in a full suit made of cloth, bottle-green in color, and strode down Pennsylvania avenue together, arm in arm, compelling all feeble pedestrians to move to the right or left of their line of advance. Then it was, as he said, that they obtained the *soubriquet* of "the couple," which significant appellation was afterwards customarily applied to them so long as they staid in Washington. Houston himself used pleasantly to complain, as I have myself heard him do more than once, that his friend Mitchell was a little too much inclined, when in Congress, to claim superiority over his official colleagues, of which I remember that he cited this special example, by way of illustration. The Tennessee members of Congress agreed one morning to call together upon some newly-arrived foreign minister. When they reached the door of the minister's residence Judge Mitchell advanced, and having rung the door-bell with some vehemence, when the janitor of the mansion made his appearance he handed him a card inscribed as follows: "General James C. Mitchell and the rest of the Tennessee delegation."

Whilst Judge Mitchell was in Congress, the tariff question was attracting much attention. It so happened, according to his own account of the matter, that he was very ill at this time and confined to his room for several weeks. When he emerged from his sick chamber, he found that the pending tariff bill was about being put upon its passage. It was a subject which he had very laboriously examined, and which he flattered himself he had very thoroughly mastered. Though still feeble, he determined to be heard, took the floor accordingly, and delivered a speech a good deal commended at the time in party circles. When he took his seat (as I have several times heard him state), he had occasion to pass the seat occupied by the celebrated John Randolph of Roanoke, who on seeing him approach, rose up and saluted him cordially, and thus addressed him: "General Mitchell, I thank you, in the name of Virginia, for your eloquent and noble speech. I have heard none such before since I came into Congress. Allow me to say further, that I regard you as one of our most precious jewels; yes, sir, one of our most *precious jewels*."

On returning from Congress, he was elected to the bench of the Circuit Court of Tennessee. In this new field of labor, he is admitted to have been zealous, active, and pains-taking. From my knowledge of him in his after life, I should conjecture that he did not exhibit as a judge any unusual degree of learning, though I have reason to believe that his conduct as a judicial officer was upon the whole quite satisfactory. He is reported to have been especially careful in preserving the dignity of the court. Of his excellence in this respect, the following characteristic anecdote is related. He was one day presiding in the trial of a civil case of much importance, when he was subjected to annoyance which greatly discomposed his feelings; a genteel-looking, well-dressed young man walked through the court room, once or twice, wearing boots whose creaking resounded through the hall of justice in a manner which could not but attract general attention. "Mr. Sheriff," exclaimed the judge, "bring that young man with creaking boots immediately before the

court." This having been done, and the young man coming forward with striking signs of perturbation, the judge thus addressed him: "Pray, how much did your boots cost you?" "Ten dollars," was the answer. "Well," said the judge, "you will never be able to reply thus again; the boots shall cost you twenty dollars. Enter up a fine of ten dollars," said the irritated judge to the clerk of the court, "against this young man for striding through this court room in creaking boots;" which was done accordingly.

No man could be more desirous of diffusing through the country a knowledge at least of the elementary principles of law than Judge Mitchell; in proof of which, I take pleasure in stating that he had formally taken upon himself the important duty (which my Lord Coke so solemnly insists that every attorney owes to his own profession) of contributing as far as he can in his day and generation to its honor and usefulness, and he had, with this view, actually *written a law book* of reasonable dimensions, called "Mitchell's Justice." In the same commendable spirit he had even gone much further, and caused to be carried round the circuit with him, when holding his successive courts, a number of these precious products of his intellect, to be disposed of to such as might stand in particular need of such information as this wondrous volume contained. It is said that the judge was kind enough on the first day of each of these courts, to make known from the bench that all who wished to purchase "Mitchell's Justice," would be able to do so by calling at the hotel where for the time being he was sojourning.

When Judge Mitchell removed to Mississippi, about forty years ago, he was beginning to show the effects of growing age upon his sturdy and gigantic frame; but he was still full of life, and became soon very widely known as a man of prodigious colloquial powers, and remarkably fitted for the ordinary discussions of the forum; for no man could talk more glibly than he could upon miscellaneous matters, declaim with more fervor, assume legal positions with more dogmatic impressiveness—or pour forth a more copious flood of epithets, without any very fastidious regard for deli-

cacy or refinement. He was also at this time a preacher of the Gospel, and sometimes in the pulpit was known to thunder forth discourses abounding in the boldest figures of speech, the most glowing pictures of fancy, and racy personal anecdotes of almost every conceivable kind at all calculated either to illustrate the topics which he discussed, or to "split the ears of those groundlings," to whom Shakespeare so significantly alludes in the dialogue between Hamlet and the Players.

Numberless were the stories told by Judge Mitchell of which he was himself the hero, and often have I known the lawyers who frequented the Hinds Circuit Court to convene specially in some spacious tavern apartment at night, for the purpose of hearing him narrate occurrences that he had witnessed, or describe achievements which he had performed; most of which it must be confessed, were but little in unison with the ordinary experience of mankind. For hours would this kind-hearted and accommodating man contribute to our entertainment without becoming himself at all exhausted, and without that *imagination* of his, which he so often forced to perform the accustomed offices of *memory*, ever seeming to flag for a single instant of time.

I will give here one specimen, out of many, of these marvellous givings-forth, none of which, by the way, were ever in the least degree tinged with malevolence or deliberately-intended injustice. "Some years ago," said the Judge, "it chanced that the citizens of the town of ———, in Tennessee, wherein I was myself a resident, assembled in public meeting to make arrangements for the reception of an honored neighbor of ours who was about returning from a mission abroad, where he had well sustained the dignity of the government and supported his own high reputation for intellect and attainments. It was determined that he should be met at the confines of the town, and be suitably addressed by some qualified speaker. It being recollected that I had been, in my life, much accustomed to such scenes, and that my long residence at Washington had given me familiar acquaintance with all the established rules of etiquette, I was

chosen to deliver the address of welcome, which I did, in a manner much commended by the newspapers of that time. It had been further agreed that a grand ball should be given in honor of our respected ex-minister and his accomplished family, and I was formally requested to accompany the beautiful and charming daughter of our returned friend to that same hall, and to be her partner in the first dance: to which arrangement I could not but accede, not being able to deny that I was quite as well versed in the mysteries of the dancing art as in the business of public speaking. Well, the first dance happened to be a contra-dance. There were at least fifty couples upon the floor. My partner and myself had, of course, taken our stations at the head, where, for a minute or two, we were the 'observed of all observers.' And well we might be, for a better-looking and more splendidly-dressed couple had, I am sure, never before been seen on *terra firma* since the days of our first parents in Paradise. The music struck up and I whisked my graceful partner through the mazes of the dance with a vivacity and elegance which I am quite sure has never been surpassed—whispering in her ears as we moved along such words of soft and winning complaisance as men of genuine gallantry have ever at their command, and which ladies of taste and sensibility never fail to appreciate. When we reached the foot of the set the captivated fair exclaimed, in tones of thrilling pathos: 'Oh! Judge Mitchell, how I wish that you were not a *married man*!' To this I promptly responded: 'Most adorable lady, I assure you that at least one thousand of your sex have expressed the same wish.' On uttering these last words, seeing a vacant space to my right, I leaped from the side of my partner, full ten feet, turned a graceful and impressive somersault, and, lighting firmly upon my feet, I faced the astonished lady, and, waving my hand in token of respect, I said: 'Miss, pray tell me what you think of that?' To which inquiry she responded: 'That is positively the most wonderful exploit I ever witnessed, and I feel that it is my duty to apply to you the words of Lord Byron when describing George the Fourth:

‘Without the least alloy of fop or beau,
A perfect gentleman from top to toe.’”

After the recital of many scenes of a kindred nature, I remember that one of the company asked the Judge what he thought of the newly-nominated candidate of the Whig party, General William Henry Harrison. This was early in the summer of 1840. The Judge answered at once that he did not at all approve of General Harrison's nomination; that he had served with him in Congress for several years, and had found him to be a man of very subordinate abilities. He stated other objections, not needful to be here mentioned, several of which were even of a more serious character; but it may be mentioned as an evidence of his remarkable versatility of temper and his disposition to make a generous allowance for the inevitable deficiencies of human kind, that in less than four weeks from this merry nocturnal assemblage, the good Judge was on horseback, moving through the state in every direction and thundering forth the praises of "Tippecanoe and Tyler too," in front of huge log cabins, in sight of rustic cider-barrels and coon-skins, and gaining a wide-spread notoriety and eclat well calculated to awaken the envy of less skilful and eloquent political stumblers. It is reported that on one of these occasions Judge Mitchell displayed more than his usual powers as a bold and subtle party advocate. Some Democrat of the piney woods of the state, the field of labor wherein the Judge was now operating, desperately irritated at the hopeless prospects of his faction, undertook to revile the Whig presidential candidate in a very sweeping and reckless manner, and even accused him, in the hearing of many, of being both an idiot and a coward, charging special mal-conduct at the battle of Tippecanoe, where he professed to have been present in person. The Judge having been informed of these things before he commenced his speech, and having been given the name of the offender, who was then present, after a few preliminary remarks in commendation of General Harrison as a military chieftain, referred to the slanders then in circulation, and bawled out the name of the man who had placed himself in the attitude of

an accuser. Upon his responding, the following dialogue ensued :

Judge Mitchell.—“Did you say that you were at the battle of Tippecanoe, and that you saw General Harrison display evidences of cowardice?”

Accuser.—“I did.”

Judge M.—“Did you see *me* there, sir?” (Staring at him most ferociously.)

Accuser.—“I do not remember seeing you.”

Judge M.—“Yet, sir, I was there, and was by General Harrison’s side throughout that scene; and if you had really been present, you could not have failed to see me.” Then, turning to the crowd, he exclaimed: “See, fellow citizens, how easily this liar has been refuted. So perish all the calumniators of the immortal hero of Tippecanoe!” Thus closed this curious scene.

Only a year or two previous to Judge Mitchell’s death, he was a candidate in the county of Hinds, for a seat in the state legislature. At a large popular meeting near the little village of Spring Hill, Colonel Dupree, an opposing candidate, said or did something which called forth in full display the Judge’s acknowledged powers of ridicule. Dupree, growing impatient under his merciless assailment, exclaimed: “Judge Mitchell, so soon as you descend from that stand, I shall whip you.” “Very possibly you may,” coolly responded the Judge; “but (continuing to address him) I will make known to you that your doing so is not at all likely to give you success in the pending canvass, or prove your ability to make laws; for I recollect that when I lived in East Tennessee, my father had a *bull* that could whip any other bull in the neighborhood; but I never heard it said that he could *legislate*.”

For the benefit of political speakers generally, I should not omit to mention that Judge Mitchell professed to have made an important discovery in the mysteries of the art, alleging that, in order to make a perfectly safe and effective electioneering harangue, it was needful that the speaker should carefully avoid ever making a single distinct point. “A speech of this kind,” he was in the habit of saying,

"*should be blown up like a bladder*, leaving no handle to be seized by the adversary." It is a somewhat curious coincidence, that the great Addison should, in one of his most exquisitely humorous numbers, have inculcated something like the same idea, when he ironically felicitates an opponent upon having written an article not capable of being responded to by reason of its consummate nonsense; insisting, as he very gravely does, that nonsense, or no-sense—which is just the same thing—is the most potential of all the elements of controversial discussion—since it neither asserts a fact, nor states a proposition, by the negation of which refutation might become possible.

Just as I was writing this sketch, a brother attorney to whom Judge Mitchell was well known reminded me of his claim to have much stronger powers of *vision* than ordinary men; in proof of which the Judge was accustomed to cite two sufficiently remarkable proofs, which were as follows: One day, standing in the City of Murfreesboro, he called the attention of a number of gentlemen to the movements of a wild turkey, which he professed plainly to see in Hoover's Gap, distant about five miles; which, of course, no one else was able to discern. On another occasion, when standing on the bank of the Mississippi river, he saw, as he reported, a steamboat coming towards him, and read the words, "*Red Rover*" painted upon her sides, when distant fully six miles!

It has been now nearly forty years since the Hon. J. L. Alcorn located in the State of Mississippi. He became a resident of one of the newly laid-off counties of the state (Coahoma), and practiced his profession in several adjoining counties, making Friar's Point his place of residence. There was then but little law business in this section of the state, but, in a few years, as the country became settled and subjected to the culture of cotton, much litigation of every kind sprang up, and General Alcorn's natural vigor of intellect, remarkable industry, and thorough knowledge of law, secured to him a business both extensive and profitable. He is a man of uncommon enterprise, and his familiar acquaintance with the rich and productive region in which he is located,

united with his unsurpassed aptitude for speculative operations, very soon opened the way to him for the acquisition of large bodies of valuable lands and ultimate affluence. He is one of the most extensive cotton planters that the South has known, and is said to raise upon his various plantations as much as from twelve to fifteen hundred bales of cotton per annum. His active and successful career as a politician has brought him very prominently before the public view, and his genial temper and fascinating manners have surrounded him with numerous admiring friends.

CHAPTER XI.

David C. Glenn.—Chancellor Chalmers.—William H. Haskell.—Spencer Jarnagin.—Milton Brown.—David C. Humphreys.—Edwin Ewing.—William F. Cooper.

The reader of these pages has been already advised that in what I have been writing for his entertainment, I have not judged it necessary to pay a strict regard to chronological order; not aiming at anything like historic method in the notices I was taking of facts and persons, for the presentation of which I should have to be indebted to such reminiscences as might chance to arise in my mind, whilst recurring casually, from time to time, to those varied fields of observation with which I have been to some extent familiar for more than a half century past. Continuing to pursue this desultory course of delineation, I shall now bring forward a gentleman to whom some allusion has been already made, and who was at one time a busy and influential actor amid scenes not likely to be soon forgotten by those who prominently participated therein. David C. Glenn was by birth a Virginian, and cherished a strong regard for ancestral honors and the historic glories of the past, such as the sons and daughters of the venerated "Ancient Dominion" have been wont to display "from time whereof the memory of man runneth not to the contrary." He was unfortunate enough to lose his father by death, when yet an infant, and had to be indebted to the kind offices of an amiable and accomplished uncle for the education and moral training bestowed on him. That uncle was the late Chancellor Chalmers, who was himself a well-informed and well-patronized lawyer, and who practiced in the town of Holly Springs for many years, in partnership with Roger Barton, of whom particular mention has been already made. Chancellor Chalmers was at one time a member of the National Senate. He was the immediate successor in that illustrious body of Robert I. Walker, and the immediate predecessor of the pres-

ent writer. Mr. Chalmers, during his brief membership in the Senate, is understood to have conducted himself with uniform modesty and decorum, but to have had no opportunity opened to him of acquiring lasting renown. His nephew, now under review, was tenderly devoted to him, and was supposed by some not to be wholly unlike him in person or character; though it is certain that David C. Glenn was of a much loftier stature than his uncle, and displayed in the progress of his career as a public man an amount of intellectual power, blended with a fiery energy of soul, to which the protector of his boyhood could not have justly laid claim. When I first saw Col. Glenn, he was only in the 20th year of his age. He had been specially commended to my care by his friends, and, as one of the Democratic Presidential electors of 1844, for the State of Mississippi, I labored hard in the electoral college to have him sent on to Washington as carrier of the vote of that commonwealth, a station which my young friend very much coveted. Unfortunately for him, Mr. Jefferson Davis was a co-elect, and he succeeded in defeating my wish upon this subject, and procuring a favorite of his own to be appointed in his stead.

Colonel Glenn, young as he was, had delivered several very brilliant and effective speeches in the Presidential canvass of 1844, and had already obtained license to practice law. I have a very agreeable reminiscence of a curious speech delivered by him in a Democratic convention which assembled in the City of Jackson about this period, in which he undertook to prefer regular articles of impeachment against the prominent chief of the Whig party, and in which he displayed very remarkable powers, as all present concurred in thinking, as a prosecuting attorney. He is even said to have been indebted in some degree to this bold and unsparing harangue for the nomination which he subsequently received for the office of attorney-general of the state, on the Democratic ticket. Certain it is that he immediately thereafter commenced the practice of his profession in the City of Jackson. Nor was he long in obtaining extensive employment as an attorney, and in acquiring an enviable reputation as a graceful, impressive, and energetic forensic advocate.

Colonel Glenn is said very early to have imbibed all the distinctive notions of the extreme States Rights party of the South; he became an almost idolatrous admirer of John C. Calhoun, and, when that illustrious personage formally declared, in the summer of 1850, his opinion that if California should be admitted into the Union as an additional free state, it would be the duty of the slave states at once to withdraw therefrom, no one was a more zealous and thorough-going advocate of this policy than the eloquent and accomplished attorney-general of Mississippi. He was among the foremost of those who, in connection with John A. Quitman, Jefferson Davis and others, struggled so fiercely and zealously at that period to draw the State of Mississippi into a *co-operative* compact of disunion with the State of South Carolina. It is doing no wrong to others to declare that the speeches made by Colonel Glenn in the summer and autumn of 1851, in support of the Secession cause, were by far the ablest which I heard from the extremists of that period anywhere in the State of Mississippi.

No one can well doubt that this gentleman, and a majority of those who were then acting with him, were perfectly honest and conscientious in the views to which they gave expression; which views, by the bye, only lacked about five hundred votes of obtaining practical enforcement, since Mr. Davis was only beaten in the election for governor nine hundred and ninety-nine votes! I repeat that the opinions uttered by Colonel Glenn and most of his associates, in favor of the proposed plan of *co-operation*, however unwise and dangerous in their tendency, were sincerely entertained by them; which view of the matter will be regarded as altogether reasonable by those who will take into consideration the following facts: 1. Their venerated leader, Mr. Calhoun, had taught them in a manner not a little imposing, that no political freedom worth possessing could exist in this country, except such as might have African slavery for its basis; that the admission of California as a free state would inevitably bring about the destruction of slavery; and that the co-operative action of two or more of the slave-holding states of the South in the adoption of secession ordinances would certainly be acquiesced in by the free states,

so that secession would become an accomplished fact without incurring the evils of civil war. 2. These views were notoriously countenanced in high quarters north of Mason and Dixon's Line. 3. It was known that several leading Democratic statesmen of the North were of opinion that the Federal Government had no *coercive* power in opposition to the declared will of sovereign states; which strange and pernicious dogma was nine years later formally avowed by James Buchanan, as President of the United States, and by his accomplished attorney-general, Jeremiah S. Black. 4. The enthusiastic champions of secession in the South had universally adopted the strange and unfounded notion that domestic slavery would not only not be at all enfeebled, but actually strengthened and solidified, by the cancellation of those organic guarantees which had so long upheld it against the general public sentiment of the Christian world. 5. It unfortunately did not at all strike the minds of these gentlemen that, after the Union should have been broken into two distinct sovereignties, it would become at all more difficult to obtain the return of *fugitives from service* than it had been in past time, under the constitution and laws of the unsevered republic. 6. They had been taught to believe, and verily did believe, that in the new state of things mentioned, there would be no danger of perpetual border hostilities, and no necessity of large standing armies on both sides of the line of territorial separation, tending constantly to the establishment of rival military despotisms. All this will doubtless appear not a little surprising to the sober-minded and experience-illuminated men of future generations; but it is incumbent upon us, to whom the particulars are perfectly well known, to exercise a charitable allowance for those who, blinded by temporary delusion, enlisted in movements from which such disastrous results were soon to flow. The class of sectional politicians with which Colonel Glenn was proud of being affiliated were far from relinquishing the project of disunion which had been barely defeated in 1851. They resolved, by nursing their sectional wrath, to keep it warm, and to change their *modus operandi* in several material respects. It will be recollected by

some, that they were much favored by circumstances from the time of Mr. Pierce's coming into power, and the accession of a leading advocate of disunion to the office of secretary of war, who, for four years, was notoriously allowed to use all the patronage of the government to make secession popular, and discredit the Union cause.

Colonel Glenn was therefore fully prepared to second the movements of Mr. Yancey in 1860; to aid in breaking up the Democratic Convention at Charleston, and disrupting the Democratic party; thereby securing the election of a Republican President, with a view to realizing the glories of Secession under his administration by the joint action of the whole body of the slave-holding states. The prominent position assumed by Colonel Glenn in the Charleston Convention is too well remembered by the whole country to need specification here, and the disastrous consequences which afterwards resulted from the unwise policy then adopted by the followers of Mr. Yancey are too fresh in the recollections of all men of intelligence to justify me in expatiating thereupon when engaged in delineating the character of one of the most remarkable members of the bar of Mississippi who flourished in these times of tempest and commotion. Colonel Glenn did not live long enough to behold the fearful scenes of slaughter and devastation which have come upon his native land since his memorable withdrawal from the Charleston Convention, followed, as it was, very quickly by that of the president of the body, Caleb Cushing, the American Talleyrand, who has figured conspicuously in so many excited political factions, and has thus far uniformly succeeded in winning the favor and confidence of the *winning* party.

How much astonished would this generous-minded and confiding champion of secession have been could he have foreseen that so soon as a sectional war should have broken out, this same Caleb Cushing would be found tendering that wrathful sword of his which had been erst so bloodlessly flourished upon the plains of Mexico, to a patriotic Republican administration, which he had aided so materially in getting into power—for the exemplary chastisement of those

allies whom he had led to the very edge of that fearful vortex of civil strife which has swallowed up well-nigh a million of valiant and liberty-loving American freemen! How Colonel Glenn's generous and heroic soul would have been convulsed could he have then had distinct prescience that another of his loved and admired States Rights allies of the North, B. F. Butler, would, in a short year or two, be enlisted in a war for the putting down of the rebellion, even at that time existing in its embryo state, and be gaining a peculiar glory as the commander of troops of African descent and lineage, for the wasting of Southern plantations and the dispeopling of Southern cities and country places! God, in his mercy, saved him from beholding horrors such as some of us have seen and felt. Long ago this brilliant advocate, this able and learned jurist, this warm-hearted and proud-spirited gentleman has ceased to participate in the affairs of earth and gone far beyond the din of party clamor and the noise of fratricidal conflict. *Requiescat in pace!*

William H. Haskell, in former days, attracted much attention as a member of the bar of Tennessee, and awakened a wide-spread admiration as a brilliant and effective popular speaker. His mind was one of much quickness and energy; his imagination was easily excited to action, and, when fully roused, displayed a fertility and pictorial splendor not often exemplified. He had great powers of ridicule, and sometimes uttered words of burning indignation which those who heard him could not soon forget. His argumentative powers were far from being contemptible, and he had a turn for repartee with which but few of his contemporaries were equally endowed. His heart was warm and sympathizing; he was steady and tenacious in his friendships; of a most kindly and placable temper, and of a personal bravery unquestioned. Had he been of a less inflammable temperament, somewhat more inclined to the study of books of science, and a little less inclined to occupy his time in scenes of pleasurable enjoyment, he would infallibly have reached heights of distinction and deserved fame to which only men of surpassing genius and of elaborate and thorough intellectual culture can reasonably expect to attain.

Of Spencer Jarnagin I should be pleased to say more than my personal knowledge of him would seem to justify. I met him once in Washington, when he was a member of the National Senate, but never had the pleasure of hearing him debate. He was born and brought up in East Tennessee, and prepared himself for the practice of law in the office of Hugh L. White. There were some peculiarities in his manner of speaking which seem to deserve special notice. He was not possessed of an imagination at all remarkable for vigor, splendor or fertility. He seldom attempted declamation, and rarely indulged in what is known as *pathos*. When he did so, his reputation as a forensic advocate was sure to receive more or less of detriment. His head was one of the clearest in the world; his powers of reasoning upon facts and law commingled were such as to call forth warm commendation whenever they were put in exercise. His language was always simple, well chosen and impressive. His elocution was pleasing, animated and free from all superfluity. His voice was of a soft and silvery intonation, like the gentle running of some unimpeded rivulet. It is said that there was a mysterious charm about his utterances when engaged in the calm and unimpassioned discussion of legal principles, which rendered it positively delightful to listen to him, and almost impossible for any man of sound and discerning intellect to leave the court house whilst Mr. Jarnagin was upon his feet. His success as a jury lawyer was such that litigants felt almost certain of winning their cases when they were so fortunate as to be represented by Spencer Jarnagin. He was a very near relative to the celebrated Barton of Missouri, who was for some years the colleague in the United States Senate of Thomas H. Benton, and who is known to have repeatedly driven the latter from the senatorial hall by the vehemence and pungency of his invective and the irresistible power of his ridicule. Judge Hugh L. White, who knew Senator Barton well before he left Tennessee, and was afterwards intimately associated with him in the Senate, was accustomed to say that this gentleman and his kinsman Jarnagin were so much alike in person, as well as in regard to voice and man-

ner of speaking, that, at a little distance, it would have been quite difficult to distinguish them from each other.

Mr. Jarnagin did not attain a very high rank in the Senate, and is reported to have had but little relish for the duties there devolved on him. He is admitted to have excelled in the relation of apt and facetious anecdotes, and to have been particularly felicitous in the framing of fictitious stories of a purely innocent character, which he oftentimes told, to the infinite amusement of all in hearing of his graphic and ludicrous recitals. He was universally recognized as a kind-hearted, genial and affable gentleman, and his presence in social circles was always a matter of special rejoicing and gratulation.

With Milton Brown, of Jackson, West Tennessee, I have long been upon familiar and intimate terms. He is a native of the State of Ohio, but located in Tennessee in the days of young and lusty manhood. He practiced law in the various courts of the state for many years, and acquired a high reputation for industry, probity and all lawyerlike accomplishments. His knowledge of law is full and accurate; his reasoning powers are much above mediocrity, and his astuteness and skill in the management of his causes are universally acknowledged. He is understood to have accumulated, by his professional labors, quite a large fortune, and is now, in the evening of his days, enjoying all the dignity and comfort which health, prosperity and troops of loving and admiring friends have it in their power to confer.

David Campbell Humphreys is now one of the judges of the Supreme Court of the District of Columbia, but was born in North Alabama, and is derived from most respectable Tennessee ancestry. I knew Judge Humphreys well when he was a member of the Huntsville bar, where he was always held in high esteem. He is a man of sterling integrity, of the highest moral courage, and as unswerving a patriot as ever lived. He has been in his time subjected to the severest tests, and has never failed to sustain himself with dignity under all circumstances. He is a well-read lawyer, an industrious and painstaking judge, and as far from all obliquity of purpose as any man that the country has produced.

Edwin Ewing has been long and favorably known to intelligent citizens in every part of the Republic. Having the advantage of a thorough collegiate education, he entered upon his career as a member of the Nashville bar many years since, under most favorable circumstances. His legal learning and ability would secure him a high rank in any commercial city on the continent. There is no department of legal learning that he has not mastered; no decided case of special importance which he has not examined, and but few branches of useful learning with which he is not more or less familiar. Judge Ewing has long been recognized as a leading barrister in all the counties of Middle Tennessee, and his reputation for integrity and patriotism is second to none. If popular approval and support were always bestowed in proportion to merit and qualification, Edwin Ewing would long since have been chosen to occupy a seat in the Senate of the United States, for which honor he has been once or twice a disappointed suitor.

I have already spoken in terms of respect and commendation of the Bench and Bar generally of the State of Tennessee; and I am quite sure that a half dozen volumes might be conveniently written upon this inspiring and attractive subject. Of the judges now constituting the Supreme Court of the State, I cannot refrain from saying that since they reached their present high positions they have every day grown in the public esteem and confidence, and that no tribunal can be mentioned in any part of the Republic where the administration of perfect justice may be more confidently expected, or where a more patient and courteous hearing may be looked for on the part of counsel, however humble in standing or inexperienced in practice. The judges presiding in the various local tribunals of Tennessee are for the most part men of ability and learning, and have in general been fortunate enough to escape all suspicions of partiality or corruption. Several of those gentlemen at the present moment officiating in the circuit courts and courts of chancery might be mentioned in terms of the warmest commendation without at all transcending the bounds of truth and justice.

I am sure I shall be excused for singling out one of the chancellors of the state for such laudatory mention as I cannot but regard as due to him. Judge William F. Cooper, the present distinguished Chancellor of Davidson county, was born in one of the counties of Middle Tennessee and is now in the prime of life. He commenced his professional career in the City of Nashville under most auspicious circumstances. He is supposed to owe his early and extensive success as an attorney in some degree to a most judicious partnership which he contracted with Messrs. Edwin and Andrew Ewing. His mind is acknowledged by all who know him to be particularly adapted to the legal profession. His knowledge of jurisprudence generally is such as few men in any country have been known to attain. His familiarity with both ancient and modern literature is universally admitted. His knowledge of the dead and living languages is such as American attorneys are seldom found to possess. He has never been recognized as a brilliant or fascinating speaker; but he always expresses himself in clear and forcible language; is never at all at a loss either for words or ideas; and his forensic arguments are uniformly marked with a cogency and impressiveness which command the profound respect both of the bench and bar. He is perhaps one of the most skilful and elegant draughtsmen of legal papers west of the Alleghany mountains; and his briefs are ever distinguished for conciseness, lucidness, and profound legal learning. His mind is at once astute, vigorous and prompt in action. His aptitude for business is really wonderful, and his patience of severe intellectual labor is inexhaustible. His temper is not easily ruffled, and he is not a little remarkable for kindness of heart, easy civility, and genial affability. In connection with Mr. Meigs, formerly an eminent member of the Nashville bar, Judge Cooper prepared the present Code of Tennessee, and it was only two days since that I heard Mr. Meigs remark that he should not be satisfied until the people of Tennessee shall have elevated Judge Cooper to the highest judicial office in their gift. I have just had the opportunity of examining with attention the admirable volume of Equity Reports,

just published, containing his decisions in equity. It contains a considerable number of the opinions delivered by him since he was elevated to the chancery bench some two or three years since. These opinions are such as would undoubtedly have done credit to any judge that our country has yet known. They are replete with jurisprudential learning, and are equally distinguished by logical vigor and acuteness, classic elegance of expression, and the most impressive and commendable impartiality. The questions which he has been called upon to decide were many of them of a most complex character, concerning which the ablest jurists both in this country and in Great Britain have for a long time painfully conflicted; and I have no hesitation in declaring that in my judgment, Chancellor Cooper has done as much as any other judge that can be mentioned in dissipating obscurities, in disentangling the confused reasonings of others, in dissolving ambiguities, and in establishing sound and salutary juridical principles. I have read every page of this remarkable volume of reports with such gratification as few books of any kind have ever afforded me, and I feel that I can honestly recommend it to the members of the profession generally as not only worthy of their perusal, but as deserving of a permanent place in their libraries.

I had the good fortune to witness the enunciation from the bench of several of the most elaborate opinions contained in the volume referred to, and can attest that they were read in hearing of the bar in a graceful and impressive manner, and with a distinctness of articulation altogether superior to the clumsy, hum-drum, and half-whispering utterances to which we are constrained so often to listen now-a-days in courts of last resort. There is one of these opinions to which I shall venture specially to refer as containing by far the most luminous exposition of the obscure and long-disputed doctrine of "*Fixtures*." I have ever met; and if space permitted I would set forth here the whole of what fell from Chancellor Cooper's lips on this subject with a confident belief that others would be as much interested as I have been with this remarkable specimen of juridical eloquence.*

* See the case referred to, which may be found on p. 22 of Vol. 1, Tennessee Chancery Reports.

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